2020

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2020 REGULAR SESSION
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 15A

Title 73

(As Revised 2017)

For latest statutes or assistance call 1-800-833-9844

By the Editorial Staff of the Publisher

LexisNexis®

QUESTIONS ABOUT THIS PUBLICATION?

For EDITORIAL QUESTIONS concerning this publication, or REPRINT PERMISSION, please call: 800-833-9844

For CUSTOMER SERVICE ASSISTANCE concerning replacement pages, shipments, billing or other matters, please call:

Customer Service Department at	800-833-9844
Outside the United States and Canada	518-487-3000
FAX	518-487-3584

For INFORMATION ON OTHER MATTHEW BENDER PUBLICATIONS, please call:

Your account manager or	800-223-1940
Outside the United States and Canada	518-487-3000

Copyright © 2020
by
THE STATE OF MISSISSIPPI

All rights reserved.

LexisNexis and the Knowledge Burst logo are registered trademarks, and Michie is a trademark of Reed Elsevier Properties, Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties, Inc.

ISBN 978-0-327-09628-3 (Code set)
ISBN 978-1-5221-2622-5 (Volume 15A)

LexisNexis

Matthew Bender & Company, Inc.

555 Middle Creek Parkway, Colorado Springs, CO 80921

www.lexisnexis.com

(Pub. 44510)

User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

Digitized by the Internet Archive
in 2021 with funding from
Public.Resource.Org

https://archive.org/details/mississippicode15stat_2

PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

User Information

Visit the LexisNexis website at http://www.lexisnexis.com for an online bookstore, technical support, customer support, and other company information.

For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at customer.support@bender.com, or write to: Mississippi Code Editor, LexisNexis, 555 Middle Creek Parkway, Colorado Springs, CO 80921.

December 2020 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 73. PROFESSION AND VOCATIONS

CHAPTER 21. Pharmacists

PHARMACY BENEFIT PROMPT PAY ACT

Sec.	
73-21-156.	Placement of drug on maximum allowable cost list; access, update and notification of update to maximum allowable cost list; administrative appeal procedure for challenge to maximum allowable cost list and reimbursements; reimbursement by pharmacy benefit manager to pharmacy or pharmacist in amount less than reimbursement to pharmacy benefit manager affiliate for same pharmacist services prohibited.
73-21-161.	Referral by pharmacy or pharmacy benefit manager or affiliate, or transfer or sharing records relative to certain prescription information, or presentation of claim for payment pursuant to referral from affiliate prohibited; pharmacy licensed or holding nonresident pharmacy permit to annually file disclosure statement identifying affiliates; violation of section.
73-21-163.	Action for temporary or permanent injunction against pharmacy benefit manager or affiliate to prohibit use of certain methods, acts or practices; monetary penalties for noncompliance with Sections 73-21-151 through 73-21-163; enforcement of payment of penalties; development of uniform penalty policy.

PRESCRIPTION DRUGS CONSUMER AFFORDABLE ALTERNATIVE PAYMENT OPTIONS ACT

73-21-201.	Short title.
73-21-203.	Definitions.
73-21-205.	Pharmacists authorized to provide additional information to patients to allow them to consider affordable alternative payment options when acquiring prescription medication; provisions of contracts or agreements contrary to Sections 73-21-201 through 73-21-205 are void; compliance with this section does not constitute violation of contract or agreement to which pharmacist is party; protection for pharmacists acting or failing to act under this section.

CHAPTER 25. PHYSICIANS

OUT-OF-STATE ATHLETIC TEAM PHYSICIANS

73-25-121.	Legislative purpose and intent.
73-25-123.	Definitions.
73-25-125.	Athletic team physicians licensed in another state exempt from Mississippi licensure requirements under certain conditions; limitations on extent of medical practice allowed under this section.
73-25-127.	Illegal practice of medicine outside circumstances authorized by Sections 73-25-121 through 73-25-127.

CHAPTER 34. REAL ESTATE APPRAISERS

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT

73-34-16.	Qualifications to be trainee appraiser.

CHAPTER 77. Fresh Start Act of 2019

Sec.	
73-77-1.	Short title.
73-77-3.	Definitions.
73-77-5.	Disqualification from pursing, practicing, or engaging in occupation for which license is required on basis of prior conviction of crime prohibited; exceptions.
73-77-7.	Use of certain vague or generic terms in licensing authority rulemaking prohibited; clear and convincing standard of proof to be used when examining factors to determine a disqualifying criminal conviction; applicability.
73-77-9.	Petition by individual to determine if criminal record is disqualifying; information licensing authority must provide individual denied license on basis of criminal record; burden of proof in hearing or litigation; applicability.
73-77-11.	Suspension or revocation of license.

CHAPTER 79. Hemodialysis Technicians

73-79-1.	Statewide hemodialysis technician registration with the State Board of Health; administration of hemodialysis under authority of licensed registered nurse.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME FIFTEEN A

TITLE 73.

PROFESSIONS AND VOCATIONS

Chapter 5. Barbers. 73-5-1
Chapter 6. Chiropractors. 73-6-1
Chapter 7. Cosmetologists. 73-7-1
Chapter 9. Dentists. 73-9-1
Chapter 13. Engineers and Land Surveyors. 73-13-1
Chapter 15. Nurses. 73-15-1
Chapter 17. Nursing Home Administrators. 73-17-1
Chapter 19. Optometry and Optometrists. 73-19-1
Chapter 21. Pharmacists. 73-21-1
Chapter 25. Physicians. 73-25-1
Chapter 26. Physician Assistants. 73-26-1
Chapter 27. Podiatrists. 73-27-1
Chapter 30. Licensed Professional Counselors. 73-30-1
Chapter 31. Psychologists. 73-31-1
Chapter 34. Real Estate Appraisers. 73-34-1
Chapter 35. Real Estate Brokers. 73-35-1
Chapter 39. Veterinarians. 73-39-1
Chapter 47. Occupational Board Compliance Act of 2017. ... 73-47-1
Chapter 50. Licensing, Certifying or Registering Military-trained Individuals or Spouses to Lawfully Practice Occupation. 73-50-1
Chapter 53. Licensing and Regulation of Social Workers. 73-53-1
Chapter 54. Marriage and Family Therapists. 73-54-1
Chapter 57. Mississippi Respiratory Care Practice Act. 73-57-1
Chapter 61. Tattooing and Body Piercing. 73-61-1
Chapter 65. Professional Art Therapists. 73-65-1
Chapter 67. Professional Massage Therapists. 73-67-1
Chapter 77. Fresh Start Act of 2019. 73-77-1
Chapter 79. Hemodialysis Technicians. 73-79-1

CHAPTER 3.

ATTORNEYS AT LAW

ARTICLE 1.

ADMISSION AND CONDUCT OF ATTORNEYS.

§ 73-3-2. Power to admit persons to bar; qualifications for admission; appeal from denial of admission; board of bar admissions; written examination; review for failing applicants; fees; certification of applicants for admission; issuance of order granting license to practice.

JUDICIAL DECISIONS

1. In general.

Chancery court, when the husband failed to appear at the divorce trial, did not improperly allow the husband's parents to exercise authority over the property distribution, or act as de facto attorneys for the husband. Instead, the husband's parents participated in the trial as witnesses and stepped forward and created lists of property belonging to each party, offered through the wife's counsel, to expedite the property distribution process. Speights v. Speights, 270 So. 3d 968, 2018 Miss. App. LEXIS 458 (Miss. Ct. App. 2018).

§ 73-3-31. Persons excepted from educational requirements.

JUDICIAL DECISIONS

1. In general.

Chancery court, when the husband failed to appear at the divorce trial, did not improperly allow the husband's parents to exercise authority over the property distribution, or act as de facto attorneys for the husband. Instead, the husband's parents participated in the trial as witnesses and stepped forward and created lists of property belonging to each party, offered through the wife's counsel, to expedite the property distribution process. Speights v. Speights, 270 So. 3d 968, 2018 Miss. App. LEXIS 458 (Miss. Ct. App. 2018).

§ 73-3-55. Unlawful to practice law without license; certain abstract companies may certify titles.

JUDICIAL DECISIONS

1. In general.

Paralegal's email transmitting a fee bill to the trial judge did not amount to the unauthorized practice of law because the attorney wholly failed to show how the paralegal's statement in an email amount to the practice of law, had anything to do with legal advice, or required any knowledge of law whatsoever. Smith v. Hickman, Goza & Spragins, PLLC, 265 So. 3d 139, 2019 Miss. LEXIS 22 (Miss. 2019).

Because the statute specifically prohibited any person from engaging in the practice of law in the State who had not been licensed according to law, there was no error in the circuit court's denial of defendant's request for a "next friend" counsel who was not a licensed attorney. Caissie v. State, 254 So. 3d 849, 2018 Miss. App. LEXIS 110 (Miss. Ct. App.), cert. denied, 254 So. 3d 170, 2018 Miss. LEXIS 410 (Miss. 2018), cert. denied, — U.S. —, 140 S. Ct. 100, 205 L. Ed. 2d 36, 2019 U.S. LEXIS 4809 (U.S. 2019).

CHAPTER 5.

BARBERS

Sec.
73-5-43. Certain acts prohibited [Repealed effective July 1, 2025].
73-5-45. Repeal of Sections 73-5-1 through 73-5-43.

§ 73-5-1. Board of barber examiners [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3863; 1942, § 8725; Laws, 1930, ch. 131; Laws, 1940, ch. 134; Laws, 1960, ch. 378, § 1; Laws, 1983, ch. 489, § 1; reenacted and amended, Laws, 1991, ch. 508, § 1; reenacted without change, Laws, 1997, ch. 511, § 1; reenacted and amended, Laws, 2002, ch. 558, § 1; reenacted without change, Laws, 2004, ch. 309, § 1; reenacted without change, Laws, 2008, ch. 303, § 1; reenacted without change, Laws, 2011, ch. 322, § 2, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 1, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 1. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-3. Officers and employees; compensation; common seal; records; quorum [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3864; 1942, § 8726; Laws, 1932, ch. 118; Laws, 1940, ch. 134; Laws, 1942, ch. 325; Laws, 1946, ch. 240; Laws, 1960, ch. 378, § 2; Laws, 1968, ch. 444, § 1; Laws, 1974, ch. 540, § 1; Laws, 1981, ch. 427, § 1; Laws, 1982, ch. 450, § 1; reenacted, Laws, 1983, ch. 489, § 2; Laws, 1990, ch. 521, § 1; reenacted, Laws, 1991, ch. 508, § 2; Laws, 1992, ch. 502, § 7; Laws, 1995, ch. 359, § 1; reenacted and amended, Laws, 1997, ch. 511, § 2; reenacted and amended, Laws, 2002, ch. 558, § 2; reenacted without change, Laws, 2004, ch. 309, § 2; reenacted without change, Laws, 2008, ch. 303, § 2; Laws, 2010, ch. 477, § 1; reenacted without change, Laws, 2011, ch. 322, § 3, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 2, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 2. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-5. Money received by board to be deposited in special fund; regulation of fund; audit; suspension of board members [Repealed effective July 1, 2025].

HISTORY: Codes, 1942, § 8727; Laws, 1932, ch. 118; Laws, 1938, ch. 176; Laws, 1983, ch. 489, § 3; reenacted, Laws, 1991, ch. 508, § 3; Laws, 1992, ch. 502, § 1; reenacted without change, Laws, 1997, ch. 511, § 3; reenacted without change, Laws, 2002, ch. 558, § 3; reenacted without change, Laws, 2004, ch. 309, § 3; reenacted without change, Laws, 2008, ch. 303, § 3; reenacted without change, Laws, 2011, ch. 322, § 4, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 3, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 3. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-7. Rules; inspection; records [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3865; 1942, § 8728; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1983, ch. 489, § 4; reenacted, Laws, 1991, ch. 508, § 4; reenacted and amended, Laws, 1997, ch. 511, § 4; Laws, 2000, ch. 357, § 1; reenacted without change, Laws, 2002, ch. 558, § 4; reenacted without change, Laws, 2004, ch. 309, § 4; reenacted without change, Laws, 2008, ch. 303, § 4; Laws, 2010, ch. 477, § 2; reenacted without change, Laws, 2011, ch. 322, § 5, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 4, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 4. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-8. Qualifications for certificate of registration as barber instructor [Repealed effective July 1, 2025].

HISTORY: Laws, 1985, ch. 341, § 1; reenacted, Laws, 1991, ch. 508, § 5; reenacted and amended, Laws, 1997, ch. 511, § 5; reenacted and amended, Laws, 2002, ch. 558, § 5; reenacted without change, Laws, 2004, ch. 309, § 5; Laws, 2005, ch. 423, § 1; reenacted without change, Laws, 2008, ch. 303, § 5; Laws, 2010, ch. 477, § 3; reenacted without change, Laws, 2011, ch. 322, § 6, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 5, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 5. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-9. Requirement of registration [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, §§ 3848, 3850; 1942, § 8729; Laws, 1930, ch. 131; Laws,

1932, ch. 118; Laws, 1982, ch. 450, § 2; reenacted, Laws, 1983, ch. 489, § 5; Laws, 1985, ch. 341, § 2; reenacted, Laws, 1991, ch. 508, § 6; reenacted without change, Laws, 1997, ch. 511, § 6; reenacted without change, Laws, 2002, ch. 558, § 6; reenacted without change, Laws, 2004, ch. 309, § 6; reenacted without change, Laws, 2008, ch. 303, § 6; Laws, 2010, ch. 477, § 4; reenacted without change, Laws, 2011, ch. 322, § 7, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 6, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 6. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-11. Qualifications for certificate of registration as registered barber; temporary permit [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3852; 1942, § 8730; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1968, ch. 444, § 2; Laws, 1979, ch. 351; Laws, 1982, ch. 450, § 3; reenacted, Laws, 1983, ch. 489, § 6; reenacted, Laws, 1991, ch. 508, § 7; Laws, 1995, ch. 359, § 2; reenacted and amended, Laws, 1997, ch. 511, § 7; Laws, 1998, ch. 322, § 1; reenacted without change, Laws, 2002, ch. 558, § 7; reenacted without change, Laws, 2004, ch. 309, § 7; reenacted without change, Laws, 2008, ch. 303, § 7; reenacted without change, Laws, 2011, ch. 322, § 8, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 7, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 7. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-12. Eligibility of cosmetologists to take barber examination [Repealed effective July 1, 2025].

HISTORY: Laws, 1982, ch. 450, § 11; reenacted, Laws, 1983, ch. 489, § 7; reenacted, Laws, 1991, ch. 508, § 8; reenacted without change, Laws, 1997, ch. 511, § 8; reenacted without change, Laws, 2002, ch. 558, § 8; reenacted without change, Laws, 2004, ch. 309, § 8; Laws, 2005, ch. 423, § 2; reenacted without change, Laws, 2008, ch. 303, § 8; reenacted without change, Laws, 2011, ch. 322, § 9, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 8, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 8. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-15. Application for examination [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3854; 1942, § 8732; Laws, 1930, ch. 131; Laws, 1932, ch. 118; reenacted, Laws, 1983, ch. 489, § 8; reenacted, Laws, 1991, ch. 508, § 9;

reenacted without change, Laws, 1997, ch. 511; Laws, 1997, ch. 588, § 27; reenacted without change, Laws, 2002, ch. 558, § 9; reenacted without change, Laws, 2004, ch. 309, § 9; reenacted without change, Laws, 2008, ch. 303, § 9; reenacted without change, Laws, 2011, ch. 322, § 10, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 9, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 9. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-17. Examinations [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3855; 1942, § 8733; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 4; reenacted, Laws, 1983, ch. 489, § 9; Laws, 1985, ch. 341, § 3; reenacted, Laws, 1991, ch. 508, § 10; Laws, 1995, ch. 359, § 3; reenacted without change, Laws, 1997, ch. 511, § 10; reenacted without change, Laws, 2002, ch. 558, § 10; reenacted without change, Laws, 2004, ch. 309, § 10; reenacted without change, Laws, 2008, ch. 303, § 10; reenacted without change, Laws, 2011, ch. 322, § 11, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 10, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 10. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-19. Issuance of certificate [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3856; 1942, § 8734; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 5; reenacted, Laws, 1983, ch. 489, § 10; Laws, 1985, ch. 341, § 4; reenacted, Laws, 1991, ch. 508, § 11; reenacted without change, Laws, 1997, ch. 511, § 11; reenacted without change, Laws, 2002, ch. 558, § 11; reenacted without change, Laws, 2004, ch. 309, § 11; reenacted without change, Laws, 2008, ch. 303, § 11; reenacted without change, Laws, 2011, ch. 322, § 12, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 11, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 11. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-21. Persons having practiced barbering in another state or country or in military service [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3857; 1942, § 8735; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 6; reenacted, Laws, 1983, ch. 489, § 11; reenacted, Laws, 1991, ch. 508, § 12; reenacted without change, Laws, 1997, ch. 511, § 12;

reenacted and amended, Laws, 2002, ch. 558, § 12; reenacted without change, Laws, 2004, ch. 309, § 12; reenacted without change, Laws, 2008, ch. 303, § 12; reenacted and amended, Laws, 2011, ch. 322, § 13; Laws, 2013, ch. 350, § 8, eff from and after July 1, 2013; reenacted without change, Laws, 2020, ch. 409, § 12, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 12. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-23. Display of certificate [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3858; 1942, § 8736; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 7; reenacted, Laws, 1983, ch. 489, § 12; reenacted, Laws, 1991, ch. 508, § 13; reenacted without change, Laws, 1997, ch. 511, § 13; reenacted without change, Laws, 2004, ch. 309, § 13; reenacted without change, Laws, 2008, ch. 303, § 13; Laws, 2010, ch. 477, § 5; reenacted without change, Laws, 2011, ch. 322, § 14, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 13, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 13. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-25. Refusal and revocation of certificate [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3859; 1942, § 8737; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1983, ch. 489, § 13; reenacted, Laws, 1991, ch. 508, § 14; Laws, 1996, ch. 507, § 31; reenacted without change, Laws, 1997, ch. 511, § 14; reenacted without change, Laws, 2002, ch. 558, § 13; reenacted without change, Laws, 2004, ch. 309, § 14; Laws, 2005, ch. 423, § 3; reenacted without change, Laws, 2008, ch. 303, § 14; Laws, 2010, ch. 477, § 6; reenacted without change, Laws, 2011, ch. 322, § 15, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 14, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 14. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-27. Hearings [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3860; 1942, § 8738; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 8; reenacted, Laws, 1983, ch. 489, § 14; Laws, 1985, ch. 341, § 5; reenacted, Laws, 1991, ch. 508, § 15; reenacted without change, Laws, 1997, ch. 511, § 15; reenacted without change, Laws, 2002, ch. 558, § 14; reenacted without change, Laws, 2004, ch. 309, § 15; reenacted without change, Laws, 2008, ch. 303, § 15; Laws, 2010, ch. 477, § 7; reenacted without change, Laws, 2011, ch. 322, § 16, eff from and after July 1, 2011;

reenacted without change, Laws, 2020, ch. 409, § 15, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 15. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-29. Fees [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3861; 1942, § 8739; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1960, ch. 378, § 3; Laws, 1968, ch. 444, § 3; Laws, 1974, ch. 540, § 2; Laws, 1981, ch. 427, § 2; Laws, 1982, ch. 450, § 9; Laws, 1983, ch. 489, § 15; Laws, 1985, ch. 341, § 6; Laws, 1990, ch. 521, § 2; reenacted, Laws, 1991, ch. 508, § 16; Laws, 1995, ch. 359, § 4; reenacted and amended, Laws, 1997, ch. 511, § 16; Laws, 1998, ch. 322, § 2; reenacted and amended, Laws, 2002, ch. 558, § 15; reenacted without change, Laws, 2004, ch. 309, § 16; reenacted without change, Laws, 2008, ch. 303, § 16; Laws, 2010, ch. 477, § 8; reenacted without change, Laws, 2011, ch. 322, § 17, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 16, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 16. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-31. Licensing of nonresidents; additional fee [Repealed effective July 1, 2025].

HISTORY: Codes, 1942, § 8739.3; Laws, 1960, ch. 378, § 4; Laws, 1981, ch. 427, § 3; reenacted, Laws, 1983, ch. 489, § 16; reenacted, Laws, 1991, ch. 508, § 17; reenacted without change, Laws, 1997, ch. 511, § 17; reenacted without change, Laws, 2002, ch. 558, § 16; reenacted without change, Laws, 2004, ch. 309, § 17; reenacted without change, Laws, 2008, ch. 303, § 17; reenacted without change, Laws, 2011, ch. 322, § 18, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 17, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 17. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-33. Issuance of licenses for barber shops; fees; enforcement of licensing requirements; notification of board of locations of licensees [Repealed effective July 1, 2025].

HISTORY: Codes, 1942, § 8739.5; Laws, 1960, ch. 378, § 5; Laws, 1968, ch. 444, § 4; Laws, 1974, ch. 540, § 3; Laws, 1981, ch. 427, § 4; Laws, 1983, ch. 489, § 17; Laws, 1990, ch. 521, § 3; reenacted, Laws, 1991, ch. 508, § 18; Laws, 1995, ch. 359, § 5; reenacted and amended, Laws, 1997, ch. 511, § 18; reenacted and amended, Laws, 2002, ch. 558, § 17; reenacted without change, Laws, 2004, ch.

309, § 18; reenacted without change, Laws, 2008, ch. 303, § 18; Laws, 2010, ch. 477, § 9; reenacted without change, Laws, 2011, ch. 322, § 19, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 18, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 18. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-35. Barber school licenses; fees [Repealed effective July 1, 2025].

HISTORY: Codes, 1942, § 8739.9; Laws, 1968, ch. 444, § 5; Laws, 1983, ch. 489, § 18; Laws, 1985, ch. 341, § 7; Laws, 1990, ch. 521, § 4; reenacted, Laws, 1991, ch. 508, § 19; reenacted without change, Laws, 1997, ch. 511, § 19; reenacted and amended, Laws, 2002, ch. 558, § 18; reenacted without change, Laws, 2004, ch. 309, § 19; reenacted without change, Laws, 2008, ch. 303, § 19; reenacted without change, Laws, 2011, ch. 322, § 20, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 19, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 19. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-37. Annual renewals [Repealed effective July 1, 2025].

HISTORY: Codes, 1942, § 8740; Laws, 1932, ch. 118; Laws, 1982, ch. 450, § 10; reenacted, Laws, 1983, ch. 489, § 19; Laws, 1985, ch. 341, § 8; reenacted, Laws, 1991, ch. 508, § 20; reenacted without change, Laws, 1997, ch. 511, § 20; reenacted without change, Laws, 2002, ch. 558, § 19; reenacted without change, Laws, 2004, ch. 309, § 20; Laws, 2007, ch. 309, § 6; reenacted without change, Laws, 2008, ch. 303, § 20; reenacted without change, Laws, 2011, ch. 322, § 21, eff from and after July 1, 2011; reenacted without change, Laws, 2020, ch. 409, § 20, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 20. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-39. What constitutes practice of barbering [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3849; 1942, § 8741; Laws, 1930, ch. 131; Laws, 1932, ch. 118; reenacted, Laws, 1983, ch. 489, § 20; reenacted, Laws, 1991, ch. 508, § 21; reenacted and amended, Laws, 1997, ch. 511, § 21; reenacted without change, Laws, 2002, ch. 558, § 20; reenacted without change, Laws, 2004, ch. 309, § 21; reenacted without change, Laws, 2008, ch. 303, § 21; Laws, 2010, ch. 477, § 10; reenacted without change, Laws, 2011, ch. 322, § 22, eff from and after July 1, 2011; enacted without change, Laws, 2020, ch. 409, § 21, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 21. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-41. Exemptions [Repealed effective July 1, 2025].

HISTORY: Codes, 1930, § 3851; 1942, § 8742; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1938, ch. 176; reenacted, Laws, 1983, ch. 489, § 21; reenacted, Laws, 1991, ch. 508, § 22; reenacted and amended, Laws, 1997, ch. 511, § 22; reenacted without change, Laws, 2002, ch. 558, § 21; reenacted without change, Laws, 2004, ch. 309, § 22; reenacted without change, Laws, 2008, ch. 303, § 22; reenacted without change, Laws, 2011, ch. 322, § 23, eff from and after July 1, 2011; enacted without change, Laws, 2020, ch. 409, § 22, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 409, § 22. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-5-43. Certain acts prohibited [Repealed effective July 1, 2025].

Each of the following constitutes a misdemeanor, punishable in any court of competent jurisdiction, upon conviction thereof, by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Thousand Dollars ($1,000.00):

The violation of any of the provisions of Sections 73-5-9, 73-5-33 and 73-5-23; or

Any acts or threats of violence against any members or employees of the board; or

Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation; or

Practicing or attempting to practice by fraudulent misrepresentation; or

The willful failure to display a certificate of registration as required by Section 73-5-23; or

The use of any room or place for barbering which is also used for residential or business purpose (except for the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco and such commodities as are used or sold in a barbershop) unless a substantial partition of ceiling height separates the portion used for the residence or business purpose from that in which such practice of barbering is carried on.

HISTORY: Codes, 1930, § 3862; 1942, § 8744; Laws, 1930, ch. 131; Laws, 1932, ch. 118; Laws, 1983, ch. 489, § 22; reenacted, Laws, 1991, ch. 508, § 23; reenacted without change, Laws, 1997, ch. 511, § 23; reenacted without change, Laws, 2002, ch. 558, § 22; reenacted without change, Laws, 2004, ch. 309, § 23; reenacted without change, Laws, 2008, ch. 303, § 23; Laws, 2010, ch. 477, § 11; reenacted and amended, Laws, 2011, ch. 322, § 24, eff from and after July 1,

2011; reenacted and amended, Laws, 2020, ch. 409, § 23, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment reenacted and amended the section by substituting "misrepresentation" for "misrepresentations" in the fifth paragraph.

§ 73-5-45. Repeal of Sections 73-5-1 through 73-5-43.

Sections 73-5-1 through 73-5-43, Mississippi Code of 1972, which create the State Board of Barber Examiners and prescribe its duties and powers, shall stand repealed as of July 1, 2025.

HISTORY: Laws, 1979, ch. 301, § 21; Laws, 1979, ch. 357, § 7; Laws, 1983, ch. 489, § 23; Laws, 1991, ch. 508 § 24; Laws, 1997, ch. 511, § 24; reenacted and amended, Laws, 2002, ch. 558, § 23; Laws, 2004, ch. 309, § 24; Laws, 2008, ch. 303, § 24; Laws, 2011, ch. 322, § 1; Laws, 2016, ch. 308, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 409, § 24, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment reenacted and amended the section by substituting "July 1, 2025" for "July 1, 2020" to extend the date of the repealer for Sections 73-5-1 through 73-5-43.

CHAPTER 6.

CHIROPRACTORS

Sec.
73-6-19. Grounds upon which license may be refused, cancelled, revoked, or suspended; proceedings; disciplinary action; monetary penalty in lieu of revocation, suspension or cancellation [Repealed effective July 1, 2021; paragraph (1)(q) repealed effective July 1, 2025].

§ 73-6-19. Grounds upon which license may be refused, cancelled, revoked, or suspended; proceedings; disciplinary action; monetary penalty in lieu of revocation, suspension or cancellation [Repealed effective July 1, 2021; paragraph (1)(q) repealed effective July 1, 2025].

(1) The board shall refuse to grant a certificate of licensure to any applicant or may cancel, revoke or suspend the certificate upon the finding of any of the following facts regarding the applicant or licensed practitioner:

(a) Failure to comply with the rules and regulations adopted by the State Board of Chiropractic Examiners;

(b) Violation of any of the provisions of this chapter or any of the rules and regulations of the State Board of Health pursuant to this chapter with regard to the operation and use of x-rays;

(c) Fraud or deceit in obtaining a license;

(d) Addiction to the use of alcohol, narcotic drugs, or anything which would seriously interfere with the competent performance of his professional duties;

(e) Conviction by a court of competent jurisdiction of a felony, other than manslaughter or any violation of the United States Internal Revenue Code;

(f) Unprofessional and unethical conduct;

(g) Contraction of a contagious disease which may be carried for a prolonged period;

(h) Failure to report to the Mississippi Department of Human Services or the county attorney any case wherein there are reasonable grounds to believe that a child or vulnerable adult has been abused by its parent or person responsible for such person's welfare;

(i) Advising a patient to use drugs, prescribing or providing drugs for a patient, or advising a patient not to use a drug prescribed by a licensed physician or dentist;

(j) Professional incompetency in the practice of chiropractic;

(k) Having disciplinary action taken by his peers within any professional chiropractic association or society;

(*l*) Offering to accept or accepting payment for services rendered by assignment from any third-party payor after offering to accept or accepting whatever the third-party payor covers as payment in full, if the effect of the offering or acceptance is to eliminate or give the impression of eliminating the need for payment by an insured of any required deductions applicable in the policy of the insured;

(m) Associating his practice with any chiropractor who does not hold a valid chiropractic license in Mississippi, or teach chiropractic manipulation to nonqualified persons under Section 73-6-13;

(n) Failure to make payment on chiropractic student loans;

(o) Failure to follow record keeping requirements prescribed in Section 73-6-18;

(p) If the practitioner is certified to provide animal chiropractic treatment, failure to follow guidelines approved by the Mississippi Board of Veterinary Medicine; or

(q) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) Any holder of such certificate or any applicant therefor against whom is preferred any of the designated charges shall be furnished a copy of the complaint and shall receive a formal hearing in Jackson, Mississippi, before the board, at which time he may be represented by counsel and examine witnesses. The board is authorized to administer oaths as may be necessary for the proper conduct of any such hearing. In addition, the board is authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers. The process issued by the board shall extend to all parts of the state. Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify, or shall refuse to produce any books and papers, the production of which is called for by the subpoena, the attendance of such witness and the giving of his testimony and the production of the books and papers shall be

enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(3) In addition to any other investigators the board employs, the board shall appoint one or more licensed chiropractors to act for the board in investigating the conduct relating to the competency of a chiropractor, whenever disciplinary action is being considered for professional incompetence and unprofessional conduct.

(4) Whenever the board finds any person unqualified to practice chiropractic because of any of the grounds set forth in subsection (1) of this section, after a hearing has been conducted as prescribed by this section, the board may enter an order imposing one or more of the following:

(a) Deny his application for a license or other authorization to practice chiropractic;

(b) Administer a public or private reprimand;

(c) Suspend, limit or restrict his license or other authorization to practice chiropractic for up to five (5) years;

(d) Revoke or cancel his license or other authorization to practice chiropractic;

(e) Require him to submit to care, counseling or treatment by physicians or chiropractors designated by the board, as a condition for initial, continued or renewal of licensure or other authorization to practice chiropractic;

(f) Require him to participate in a program of education prescribed by the board; or

(g) Require him to practice under the direction of a chiropractor designated by the board for a specified period of time.

(5) Any person whose application for a license or whose license to practice chiropractic has been cancelled, revoked or suspended by the board within thirty (30) days from the date of such final decision shall have the right of a de novo appeal to the circuit court of his county of residence or the Circuit Court of the First Judicial District of Hinds County, Mississippi. If there is an appeal, such appeal may, in the discretion of and on motion to the circuit court, act as a supersedeas. The circuit court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the circuit judge, be tried in vacation. Either party shall have the right of appeal to the Supreme Court as provided by law from any decision of the circuit court.

(6) In a proceeding conducted under this section by the board for the revocation, suspension or cancellation of a license to practice chiropractic, after a hearing has been conducted as prescribed by this section, the board shall have the power and authority for the grounds stated in subsection (1) of this section, with the exception of paragraph (c) thereof, to assess and levy upon any person licensed to practice chiropractic in the state a monetary penalty in lieu of such revocation, suspension or cancellation, as follows:

(a) For the first violation, a monetary penalty of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) for each violation.

(b) For the second and each subsequent violation, a monetary penalty of not less than One Thousand Dollars ($1,000.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each violation.

The power and authority of the board to assess and levy such monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations. A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section to the circuit court under the same conditions as a right of appeal is provided for in this section for appeals from an adverse ruling, or order, or decision of the board. Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal has expired, and an appeal of the assessment and levy of such a monetary penalty shall act as a supersedeas.

(7) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Laws, 1973, ch. 501, § 10; reenacted and amended, Laws, 1983, ch. 448, § 10; Laws, 1988, ch. 361; Laws, 1991, ch. 350, § 10; Laws, 1996, ch. 507, § 32; reenacted and amended, Laws, 1997, ch. 428, § 10; Laws, 1999, ch. 406, § 2; reenacted without change, Laws, 2001, ch. 409, § 11; Laws, 2003, ch. 400, § 2; reenacted without change, Laws, 2006, ch. 515, § 10; reenacted and amended, Laws, 2011, ch. 323, § 12; Laws, 2012, ch. 409, § 14; Laws, 2016, ch. 419, § 7, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 7, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment extended the date of the repealer for paragraph (1)(q) by substituting "July 1, 2025" for "July 1, 2020."

JUDICIAL DECISIONS

ANALYSIS

1. De novo review.
2. Assessment of costs of investigation.

1. De novo review.

Chiropractor's appeal from the Mississippi State Board of Chiropractic Examiners' (Board) decision was not reviewed de novo, despite Miss. Code Ann. § 73-6-19(5), because (1) the first proceeding was before the Board, and (2) there could be no de novo appeal absent a prior appeal. Barlow v. Miss. State Bd. of Chiropractic Examiners, 233 So. 3d 223, 2017 Miss. LEXIS 209 (Miss. 2017).

2. Assessment of costs of investigation.

Mississippi State Board of Chiropractic Examiners (Board) had no authority to assess the costs of an investigation against a chiropractor because the statute allowing the Board to assess monetary penalties did not explicitly allow the Board to assess the costs of an investigation to a party disciplined. Barlow v. Miss. State Bd. of Chiropractic Examiners, 233 So. 3d 223, 2017 Miss. LEXIS 209 (Miss. 2017).

§ 73-6-25. Prohibited conduct [Repealed effective July 1, 2021].

JUDICIAL DECISIONS

ANALYSIS

1. Relation to other laws.
2. Limitations on advertising.

1. Relation to other laws.

Patient's Right to Informed Health Care Choices Act (Act), codified as Miss. Code Ann. § 41-121-1 et seq., did not repeal Miss. Code Ann. § 73-6-25(1)(a) by making a chiropractor tell patients of the chiropractor's other certifications because the other certifications were not licenses the Act intended to reveal. Barlow v. Miss. State Bd. of Chiropractic Examiners, 233 So. 3d 223, 2017 Miss. LEXIS 209 (Miss. 2017).

2. Limitations on advertising.

Chiropractor did not show statutes requiring the chiropractor to use only certain licensure designations in advertising did not violate the First Amendment because the evidence demonstrated that the chiropractor's advertisements were actually misleading. Barlow v. Miss. State Bd. of Chiropractic Examiners, 233 So. 3d 223, 2017 Miss. LEXIS 209 (Miss. 2017).

§ 73-6-33. Repeal of Sections 73-6-1 through 73-6-31.

HISTORY: Laws, 1979, ch. 301, § 22; Laws, 1979, ch. 357, § 8; Laws, 1983, ch. 448, § 17; Laws, 1991, ch. 350, § 16; reenacted and amended, Laws, 1997, ch. 428, § 16; reenacted and amended, Laws, 2001, ch. 409, § 16; Laws, 2006, ch. 515, § 16; reenacted and amended, Laws, 2011, ch. 323, § 19; Laws, 2016, ch. 314, § 1, eff from and after July 1, 2016.

Editor's Notes — This section's history is set out above to correct an error in the Laws, 2016 chapter number as it appeared in the 2017 Replacement Volume 15A.

CHAPTER 7.

COSMETOLOGISTS

General Provisions. 73-7-1

GENERAL PROVISIONS

Sec.
73-7-12. Examinations [Repealed effective July 1, 2021].

§ 73-7-12. Examinations [Repealed effective July 1, 2021].

(1) Effective January 1, 2020, the State Board of Cosmetology shall terminate its student testing contract with proper notice and shall conduct examinations for cosmetologists, estheticians, manicurists and instructors at such times and locations as determined by the board. The members of the board shall not personally administer or monitor the examinations, but the board shall contract for administrators of the examinations. A member of the board shall not receive any per diem compensation for any day that the member is present at the site where the examinations are being administered.

(2) This section shall stand repealed on July 1, 2021.

HISTORY: Laws, 1987, ch. 516, § 4; reenacted, Laws, 1991, ch. 553, § 8; reenacted, Laws, 1993, ch. 596, § 9; reenacted, Laws, 1995, ch. 383, § 8; reenacted without change, Laws, 1997, ch. 513, § 8; reenacted without change, Laws, 2005, ch. 492, § 8; reenacted without change, Laws, 2010, ch. 487, § 8; reenacted and amended, Laws, 2011, ch. 525, § 8; Laws, 2013, ch. 523, § 8, eff from and after July 1, 2013; Laws, 2019, ch. 413, § 1, eff from and after July 1, 2019.

Editor's Notes — This section is included within the span of sections repealed by § 73-7-63, effective July 1, 2021. Section 1 of Chapter 413, Laws of 2019, added a sunset provision to the section, effective July 1, 2021. The section is subject to both repealers.

Amendment Notes — The 2019 amendment rewrote the section, which read: "The State Board of Cosmetology shall contract with a recognized testing service to conduct examinations for cosmetologists, estheticians, manicurists and instructors at such times and locations as determined by the contracted testing service. No member of the board shall be authorized to personally administer the examinations," and designated it (1); and added (2).

HAIR BRAIDING

§ 73-7-71. "Hair braiding" defined; persons practicing hair braiding for compensation required to register with Department of Health; department not authorized to license or regulate the practice of hair braiding; department directed to develop brochure containing information about infection control techniques; brochure to include self-test questionnaire; persons engaging in hair braiding for compensation may be exempt from cosmetology licensing by completing self-test and keeping it at place of business; department may conduct inspections of premises to determine whether self-test is available on site; section inapplicable to licensed cosmetologists, barbers, or wig specialists.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 42. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 9.

DENTISTS

General Licensing Requirements. 73-9-1

GENERAL LICENSING REQUIREMENTS

Sec.
73-9-61. Denial of issuance or renewal, revocation, or suspension of license for cause; monetary penalty in lieu of denial, revocation, or suspension; other disciplinary measures [Paragraph (1)(r) repealed effective July 1, 2025].

§ 73-9-61. Denial of issuance or renewal, revocation, or suspension of license for cause; monetary penalty in lieu of denial, revocation, or suspension; other disciplinary measures [Paragraph (1)(r) repealed effective July 1, 2025].

(1) Upon satisfactory proof, and in accordance with statutory provisions elsewhere set out for such hearings and protecting the rights of the accused as well as the public, the State Board of Dental Examiners may deny the issuance or renewal of a license or may revoke or suspend the license of any licensed dentist or dental hygienist practicing in the State of Mississippi, or take any other action in relation to the license as the board may deem proper under the circumstances, for any of the following reasons:

(a) Misrepresentation in obtaining a license, or attempting to obtain, obtaining, attempting to renew or renewing a license or professional credential by making any material misrepresentation, including the signing in his or her professional capacity any certificate that is known to be false at the time he or she makes or signs the certificate.

(b) Willful violation of any of the rules or regulations duly promulgated by the board, or of any of the rules or regulations duly promulgated by the appropriate dental licensure agency of another state or jurisdiction.

(c) Being impaired in the ability to practice dentistry or dental hygiene with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

(d) Administering, dispensing or prescribing any prescriptive medication or drug outside the course of legitimate professional dental practice.

(e) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(f) Practicing incompetently or negligently, regardless of whether there is actual harm to the patient.

(g) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to the practice of dentistry or dental hygiene, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(h) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a felony in any jurisdiction, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(i) Delegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them.

(j) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice dentistry or dental hygiene in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by the licensing authority that prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(k) Surrender of a license or authorization to practice dentistry or dental hygiene in another state or jurisdiction when the board has reasonable cause to believe that the surrender is made to avoid or in anticipation of a disciplinary action.

(*l*) Any unprofessional conduct to be determined by the board on a case-by-case basis, which shall include, but not be restricted to, the following:

(i) Committing any crime involving moral turpitude.

(ii) Practicing deceit or other fraud upon the public.

(iii) Practicing dentistry or dental hygiene under a false or assumed name.

(iv) Advertising that is false, deceptive or misleading.

(v) Announcing a specialized practice shall be considered advertising that tends to deceive or mislead the public unless the dentist announcing as a specialist conforms to other statutory provisions and the duly promulgated rules or regulations of the board pertaining to practice of dentistry in the State of Mississippi.

(m) Failure to provide and maintain reasonable sanitary facilities and conditions or failure to follow board rules regarding infection control.

(n) Committing any act which would constitute sexual misconduct upon a patient or upon ancillary staff. For purposes of this subsection, the term sexual misconduct means:

(i) Use of the licensee-patient relationship to engage or attempt to engage the patient in sexual activity; or

(ii) Conduct of a licensee that is intended to intimidate, coerce, influence or trick any person employed by or for the licensee in a dental practice or educational setting for the purpose of engaging in sexual activity or activity intended for the sexual gratification of the licensee.

(o) Violation of a lawful order of the board previously entered in a disciplinary or licensure hearing; failure to cooperate with any lawful request or investigation by the board; or failure to comply with a lawfully issued subpoena of the board.

(p) Willful, obstinate and continuing refusal to cooperate with the board in observing its rules and regulations in promptly paying all legal license or other fees required by law.

(q) Practicing dentistry or dental hygiene while the person's license is suspended.

(r) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) In lieu of revocation of a license as provided for above, the board may suspend the license of the offending dentist or dental hygienist, suspend the sedation permit of the offending dentist, or take any other action in relation to his or her license as the board may deem proper under the circumstances.

(3) When a license to practice dentistry or dental hygiene is revoked or suspended by the board, the board may, in its discretion, stay the revocation or suspension and simultaneously place the licensee on probation upon the condition that the licensee shall not violate the laws of the State of Mississippi pertaining to the practice of dentistry or dental hygiene and shall not violate the rules and regulations of the board and shall not violate any terms in relation to his or her license as may be set by the board.

(4) In a proceeding conducted under this section by the board for the denial, revocation or suspension of a license to practice dentistry or dental hygiene, the board shall have the power and authority for the grounds stated for that denial, revocation or suspension, and in addition thereto or in lieu of that denial, revocation or suspension may assess and levy upon any person licensed to practice dentistry or dental hygiene in the State of Mississippi, a monetary penalty, as follows:

(a) For the first violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00).

(b) For the second violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00).

(c) For the third and any subsequent violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Five Hundred Dollars ($500.00) and not more than Five Thousand Dollars ($5,000.00).

(d) For any violation of any of subparagraphs (a) through (q) of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension, including, but not limited to, the cost of process service, court reporters, expert witnesses and investigators.

(5) The power and authority of the board to assess and levy monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations except as provided in this section.

(6) A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section under the same conditions as a right of appeal is provided elsewhere for appeals from an adverse ruling, order or decision of the board.

(7) Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal has expired. In the event of an appeal, the appeal shall act as a supersedeas.

(8) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of those penalties under this section or may be paid sooner if the licensee elects. With the exception of subsection (4)(d) of this section, monetary penalties collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury. Any monies collected by the board under subsection (4)(d) of this section shall be deposited into the special fund operating account of the board.

(9) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the licensee, and if the licensee is a nonresident of the State of Mississippi, the proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(10) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(11) All grounds for disciplinary action, including imposition of fines and assessment of costs as enumerated above, shall also apply to any other license or permit issued by the board under this chapter or regulations duly adopted by the board.

HISTORY: Codes, 1930, § 4321; 1942, § 8773; Laws, 1928, ch. 131; Laws, 1936, ch. 299; Laws, 1966, ch. 471, § 1; Laws, 1970, ch. 404, § 3; Laws, 1979, ch. 336; Laws, 1983, ch. 488, § 31; Laws, 1991, ch. 483, § 31; Laws, 1992, ch. 580, § 4; Laws, 1996, ch. 507, § 34; reenacted without change, Laws, 1997, ch. 541, § 32; Laws, 2000, ch. 560, § 9; reenacted and amended, Laws, 2002, ch. 524, § 32; Laws, 2012, ch. 409, § 7; Laws, 2016, ch. 419, § 8, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 8, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment extended the date of the repealer for paragraph (1)(r) by substituting "July 1, 2025" for "July 1, 2020."

§ 73-9-65. Accused entitled to notice, hearing and appeal; practice of dentistry or dental hygiene pending appeal.

JUDICIAL DECISIONS

2. Timeliness.

Dismissal of an appeal by a dentist from a decision by the Mississippi State Board of Dental Examiners to revoke his dental license was appropriate because the chancery court lacked appellate jurisdiction over the appeal based on the dentist's failure to file his notice of appeal within thirty days of the Board's decision as required by statute. Arrington v. Miss. State Bd. of Dental Examiners, 266 So. 3d 627, 2019 Miss. LEXIS 124 (Miss. 2019).

CHAPTER 10.

DIETITIANS

§ 73-10-9. Applicant qualifications; fee.

HISTORY: Laws, 1986, ch. 453, § 5; Laws, 1994, ch. 400, § 3; Laws, 1997, ch. 588, § 38; reenacted and amended, Laws, 2000, ch. 483, § 5; reenacted without change, Laws, 2002, ch. 620, § 5; Laws, 2016, ch. 510, § 43, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 43, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 43. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

§ 73-10-11. Provisional license; fee.

HISTORY: Laws, 1986, ch. 453, § 6; Laws, 1994, ch. 400, § 4; reenacted and amended, Laws, 2000, ch. 483, § 6; reenacted without change, Laws, 2002, ch. 620, § 6; Laws, 2016, ch. 510, § 44, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 44, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 44. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

§ 73-10-21. Duties of Board.

HISTORY: Laws, 1986, ch. 453, § 11; Laws, 1994, ch. 400, § 8; Laws, 1996, ch. 507, § 36; reenacted and amended, Laws, 2000, ch. 483, § 11; reenacted without change, Laws, 2002, ch. 620, § 11; Laws, 2007, ch. 309, § 10; Laws, 2016, ch. 510, § 45, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 45, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 45. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

CHAPTER 13.

ENGINEERS AND LAND SURVEYORS

Engineers. 73-13-1
Land Surveyors. 73-13-71

ENGINEERS

Sec.
73-13-15. Rules and regulations; seal; powers.
73-13-31. Certificate of registration; expiration.
73-13-43. Corporations or partnerships.

§ 73-13-15. Rules and regulations; seal; powers.

The board shall have the power to adopt and amend all regulations and rules of procedure, not inconsistent with the Constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal. It shall not be required to post bond on appeals. The board shall have the further power and authority to:

(a) Establish standards of conduct and ethics;

(b) Institute proceedings in its own name;

(c) Promulgate rules restricting competitive bidding;

(d) Promulgate rules limiting or restricting advertising;

(e) Promulgate rules requiring a demonstration of continuing education;

(f) Adopt and promulgate reasonable bylaws and rules and regulations necessary or appropriate for the proper fulfillment of its duties under state laws pertaining thereto;

(g) Provide for the enforcement of and to enforce the laws of the State of Mississippi and, in particular, the provisions of this chapter, and the bylaws, rules and regulations of the board;

(h) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for taking the disciplinary actions provided for in Section 73-13-37, including the imposition of fines as provided therein;

(i) Investigate, prosecute or initiate prosecution for violation of the laws of this state pertaining to the practices of engineering and surveying, or matters affecting the rights and duties or otherwise related thereto;

(j) Adopt rules setting forth qualifications and standards of practice for firms; and

(k) Provide by appropriate rules and regulations, within the provisions of this chapter, a system for the annual and/or biennial renewal of certificates of licensure.

In carrying into effect the provisions of Sections 73-13-1 through 73-13-105, the board, under the hand of its president or secretary and the seal of the board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in any case involving the disciplinary actions provided for in Section 73-13-37 or 73-13-89 or practicing or offering to practice without licensure. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers or documents, the board may present its petition to such authority as may have jurisdiction, setting forth the facts, and thereupon such authority shall, in a proper case, issue its subpoena to such person, requiring his attendance before such authority and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said authority may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the authority.

HISTORY: Codes, 1942, § 8791-08; Laws, 1954, ch. 321, § 8; reenacted and amended, Laws, 1983, ch. 450, § 8; reenacted and amended, Laws, 1991, ch. 470, § 8; reenacted without change, Laws, 1999, ch. 416, § 8; reenacted and amended, Laws, 1999, ch. 534, § 8; reenacted and amended, Laws, 2004, ch. 586, § 8, eff from and after July 1, 2004; Laws, 2019, ch. 328, § 2, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added (k) and made related changes.

§ 73-13-31. Certificate of registration; expiration.

(1) Except as provided in Section 33-1-39 and subsection (2) of this section, certificates of licensure shall expire on the last day of the month of

December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under this chapter of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. Such notice shall occur at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee, as determined by the board, not to exceed Fifty Dollars ($50.00) or One Hundred Dollars ($100.00) if renewals are for two (2) years. A person who is licensed as a professional engineer and as a professional surveyor may effect both renewals by the payment of a fee not to exceed Seventy-five Dollars ($75.00), or One Hundred Fifty Dollars ($150.00) if renewals are for two (2) years. The failure on the part of any licensee to renew his certificate annually, or biennially, in the month of December as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month, or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed five (5) times the normal renewal fee. A state agency or any of the state's political subdivisions, such as a county or municipality, may pay the renewal fee of any licensee who is a full-time employee; provided, however, that any licensee who permits his/her renewal fee to be paid from any public funds shall not perform engineering or surveying services for a fee or other emoluments for the public or for any other public entity. If a certificate has expired for six (6) months or more, the licensee shall be required to submit a new application, paying back fees and submitting proof of continuing professional competency compliance. If the certificate has expired for five (5) years or more, in addition to submitting a new application and proof of continuing professional competency compliance, reexamination in the principles and practice may be required. The reexamination requirement may be waived by the board provided the applicant has continued to practice in another jurisdiction from the date of expiration of his certificate.

HISTORY: Codes, 1942, § 8791-16; Laws, 1954, ch. 321, § 16; Laws, 1971, ch. 506, § 1; Laws, 1978, ch. 500, § 3; reenacted and amended, Laws, 1983, ch. 450, § 16; reenacted and amended, Laws, 1991, ch. 470, § 16; reenacted without change, Laws, 1999, ch. 416, § 16; reenacted and amended, Laws, 1999, ch. 534, § 16; reenacted and amended, Laws, 2004, ch. 586, § 16; Laws, 2007, ch. 309, § 12, eff from and after passage (approved Mar. 8, 2007); Laws, 2019, ch. 328, § 1, eff from and after July 1, 2019.

Editor's Note — Subsection (1) of this section contains a reference to a subsection (2) of the section, but there is no subsection (2) in this section. The section is set out above as it was amended by Section 1 of Chapter 328, Laws of 2019 Regular Session.

Amendment Notes — The 2019 amendment designated the formerly undesignated section as (1), and in (1), inserted "and subsection (2) of this section" in the first sentence and "or two (2) years" in the second sentence, substituted "shall occur at least" for "shall be sent by first-class mail to the last known address of the licensee at least" in the third sentence, added "or One Hundred Dollars ($100.00) if renewals are for two (2) years" at the end of the fourth and fifth sentences, and inserted "or biennially" in the sixth sentence.

§ 73-13-39. Unlawful acts and penalties.

JUDICIAL DECISIONS

2. Constitutionality.

State licensing board's decision that name "Tire Engineers" for a business that operated automotive services centers violated a state law restricting use of term "engineer" to those with professional licenses violated First Amendment's commercial speech protections, even though the company name was potentially misleading, because the law was more extensive than necessary to protect the public and the board failed to address why alternative, less-restrictive means, such as a disclaimer, would not accomplish the statutory goal. Express Oil Change, L.L.C. v. Miss. Bd. of Licensure for Prof'l Eng'rs & Surveyors, 916 F.3d 483, 2019 U.S. App. LEXIS 4805 (5th Cir. Miss. 2019).

§ 73-13-43. Corporations or partnerships.

As of January 1, 2005, no corporation, firm or partnership may engage in the practice of professional engineering in this state unless it has been issued a certificate of authority by the board. In order to qualify for a certificate of authority, a corporation, firm or partnership must have at least one (1) Mississippi-licensed professional engineer as a principal officer, partner or designated principal engineer of the firm who has management responsibility for such practice and who makes significant technical and/or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability.

The board shall have the authority to promulgate rules and regulations setting procedures, standards and other requirements for issuing and maintaining a certificate of authority for corporations, firms or partnerships practicing engineering in the State of Mississippi.

Applications for a certificate of authority shall be on the forms prescribed and furnished by the board, and provide all the information required by said board. The board shall establish a fee for the certificate of authority application, not to exceed Two Hundred Fifty Dollars ($250.00) for a one-year certificate or Four Hundred Dollars ($400.00) for a two-year certificate. Any corporation, firm or partnership having the necessary qualifications as prescribed herein and the rules and regulations of the board shall be issued a certificate of authority for said corporation, firm or partnership to practice engineering and to contract and collect fees for furnishing this service.

Each certificate of authorization will expire on December 31 of the end of the renewal period year. It shall be the duty of the board to notify every corporation, firm or partnership holding a certificate of authority under Sections 73-13-1 through 73-13-45 of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. The renewal fee shall not exceed One Hundred Fifty Dollars ($150.00) for one (1) year or Three Hundred Dollars ($300.00) for two (2) years; penalties for late renewal shall be ten percent (10%) per month that payment is delayed. Additionally, if any of the information on the initial or any subsequent renewal application changes for the corporation, firm or partnership, said corporation, firm or partnership shall notify the board in the form and manner prescribed by the board within thirty (30) days of the change.

Effective January 1, 2005, the Secretary of State shall not issue a certificate of incorporation, licensure or authorization to an applicant or licensure as a foreign firm to a corporation, firm or partnership which includes in its name, or among the objectives for which it is established, any of the words, "engineer," "engineering," or any modification or derivation thereof, unless the board has issued for said applicant a certificate of authority or a letter indicating the eligibility of such applicant to receive such a certificate. The corporation, firm or partnership applying shall supply such certificate or letter from the board with its application for incorporation, licensure or authorization to the Secretary of State.

An engineer who renders occasional, part-time or consulting engineering services to or for a corporation, firm or partnership may not, for the purposes of this section, be designated as being responsible for the professional activities of the firm.

No such corporation, firm or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, partners, members or managers by reason of its compliance with the provisions of this section. No individual practicing engineering under this chapter shall be relieved of responsibility for engineering services performed by reason of employment or other relationship with a firm holding an authorization certificate.

HISTORY: Codes, 1930, § 4671; 1942, § 8791-24; Laws, 1928, Ex. Sess. ch. 56; Laws, 1954, ch. 321, § 24; reenacted and amended, Laws, 1983, ch. 450, § 22; reenacted without change, Laws, 1991, ch. 470, § 22; reenacted without change, Laws, 1999, ch. 416, § 22; reenacted and amended, Laws, 1999, ch. 534, § 22; reenacted and amended, Laws, 2004, ch. 586, § 22, eff from and after July 1, 2004; Laws, 2019, ch. 328, § 3, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "for a one-year certificate or Four Hundred Dollars ($400.00) for a two-year certificate" at the end of the second sentence of the third paragraph; and in the fourth paragraph, substituted "the end of the renewal period year" for "each year" in the first sentence, added "or two (2) years" at the end of the second sentence, and inserted "for one (1) year or Three Hundred Dollars ($300.00) for two (2) years" in the third sentence.

LAND SURVEYORS

Sec.
73-13-85. Expiration and renewals.
73-13-105. Professional land surveying firm; requirement that firm have at least one registered professional land surveyor as principal officer or partner.

§ 73-13-85. Expiration and renewals.

Certificates of licensure shall expire on the last day of the month of December at the end of the renewal period following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under Sections 73-13-71 through 73-13-105 of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years; such notice shall occur at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee not to exceed Fifty Dollars ($50.00) or One Hundred Dollars ($100.00) if renewals are for two (2) years. A person who is licensed as a professional surveyor and as a professional engineer may effect both renewals by the payment of a single fee not to exceed Seventy-five Dollars ($75.00), or One Hundred Fifty Dollars ($150.00) if renewals are for two (2) years. The failure on the part of any licensee to renew his certificate annually or biennially in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten percent (10%) for each month that payment of renewal is delayed; however, the maximum fee for delayed renewal shall not exceed five (5) times the normal renewal fee.

If a certificate has expired for six (6) months or more, the licensee shall be required to submit a new application, paying back fees and submitting proof of continuing professional competency compliance. If the certificate has expired for five (5) years or more, in addition to submitting a new application and proof of continuing professional competency compliance, reexamination in the principles and practice may be required. The reexamination may be waived by the board provided the applicant has continued to practice under another jurisdiction from the date of expiration of his certificate.

HISTORY: Codes, 1942, § 8792-08; Laws, 1962, ch. 505, § 8; Laws, 1980, ch. 515, § 6; reenacted and amended, Laws, 1983, ch. 450, § 31; reenacted and amended, Laws, 1991, ch. 470, § 31; reenacted without change, Laws, 1999, ch. 416, § 31; reenacted and amended, Laws, 1999, ch. 534, § 31; reenacted and amended, Laws, 2004, ch. 586, § 31, eff from and after July 1, 2004; Laws, 2019, ch. 328, § 4, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment inserted “at the end of the renewal period” in the first sentence; in the second sentence, inserted “or two (2) years” and substituted “shall occur” for “shall be sent by first-class mail to the last known address of the licensee”; added “or One Hundred Fifty Dollars ($150.00) if renewals are for two (2) years” at the end of the fourth sentence; and inserted “or biennially” in the fifth sentence.

§ 73-13-105. Professional land surveying firm; requirement that firm have at least one registered professional land surveyor as principal officer or partner.

As of January 1, 2005, no corporation, firm or partnership may engage in the practice of professional surveying in this state unless it has been issued a certificate of authority by the board. In order to qualify for a certificate of authority, a corporation, firm or partnership must have at least one (1) Mississippi-licensed professional surveyor as a principal officer or partner of the firm who has management responsibility for such practice.

The board shall have the authority to promulgate rules and regulations setting procedures, standards and other requirements for issuing and maintaining a certificate of authority for corporations, firms or partnerships practicing surveying in the State of Mississippi.

Applications for a certificate of authority shall be on the forms prescribed and furnished by the board, and provide all the information required by said board. The board shall establish a fee for the certificate of authority application, not to exceed Two Hundred Fifty Dollars ($250.00) for a one-year certificate and Four Hundred Dollars ($400.00) for a two-year certificate. Any corporation, firm or partnership having the necessary qualifications as prescribed herein and the rules and regulations of the board shall be issued a certificate of authority for said corporation, firm or partnership to practice surveying and to contract and collect fees for furnishing this service.

Each certificate of authorization will expire on December 31 of the end of the renewal period year. It shall be the duty of the board to notify every corporation, firm or partnership holding a certificate of authority under Sections 73-13-71 through 73-13-105 of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal for one (1) year or two (2) years. The renewal fee shall not exceed One Hundred Fifty Dollars ($150.00) for one (1) year or Three Hundred Dollars ($300.00) for two (2) years; penalties for late renewal shall be ten percent (10%) per month that payment is delayed. Additionally, if any of the information on the initial or any subsequent renewal application changes for the corporation, firm or partnership, said corporation, firm or partnership shall notify the board in the form and manner prescribed by the board within thirty (30) days of the change.

Effective January 1, 2005, the Secretary of State shall not issue a certificate of incorporation, licensure or authorization to an applicant or licensure as a foreign firm to a corporation, firm or partnership which includes in its name, or among the objectives for which it is established, any of the words, "surveyor," "surveying" or any modification or derivation thereof, unless the board has issued for said applicant a certificate of authority or a letter indicating the eligibility of such applicant to receive such a certificate. The corporation, firm or partnership applying shall supply such certificate or letter from the board with its application for incorporation, licensure or authorization to the Secretary of State.

A surveyor who renders occasional, part-time or consulting surveying services to or for a corporation, firm or partnership may not, for the purposes of this section, be designated as being responsible for the professional activities of the firm.

No such corporation, firm or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, partners, members or managers by reason of its compliance with the provisions of this section. No individual practicing surveying under this chapter shall be relieved of responsibility for surveying services performed by reason of employment or other relationship with a firm holding an authorization certificate.

HISTORY: Laws, 1999, ch. 534, § 38; Laws, 2004, ch. 586, § 39, eff from and after July 1, 2004; Laws, 2019, ch. 328, § 5, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "for a one-year certificate and Four Hundred Dollars ($400.00) for a two-year certificate" at the end of the second sentence of the third paragraph; and in the fourth paragraph, substituted "the end of the renewal period year" for "each year" in the first sentence, added "or two (2) years" at the end of the second sentence, and inserted "for one (1) year or Three Hundred Dollars ($300.00) for two (2) years" in the third sentence.

CHAPTER 14.

HEARING AID DEALERS

§ 73-14-17. Application for license [Repealed effective July 1, 2020].

HISTORY: Codes, 1942, § 7129-106; Laws, 1972, ch. 523, § 6; Laws, 1979, ch. 445, § 10; Laws, 1983, ch. 486, § 7; Laws, 1986, ch. 371, § 9; reenacted, Laws, 1991, ch. 351, § 7; Laws, 1992, ch. 438, § 7; reenacted, Laws, 1995, ch. 503, § 7; Laws, 1997, ch. 588, § 41; reenacted without change, Laws, 2000, ch. 484, § 7; brought forward without change, Laws, 2005, ch. 460, § 7; Laws, 2016, ch. 510, § 46, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 46, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 46. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-14-19. Applicant to appear for examination upon payment of fee.

HISTORY: Codes, 1942, § 7129-107; Laws, 1972, ch. 523, § 7; reenacted, Laws, 1983, ch. 486, § 8; Laws, 1986, ch. 371, § 10; reenacted, Laws, 1991, ch. 351, § 8; Laws, 1992, ch. 438, § 8; reenacted, Laws, 1995, ch. 503, § 8; reenacted without change, Laws, 2000, ch. 484, § 8; brought forward without change, Laws, 2005, ch. 460, § 8; Laws, 2016, ch. 510, § 47, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 47, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 47. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-14-27. Temporary license.

HISTORY: Codes, 1942, § 7129-110; Laws, 1972, ch. 523, § 10; reenacted, Laws,

1983, ch. 486, § 12; Laws, 1986, ch. 371, § 11; reenacted, Laws, 1991, ch. 351, § 12; Laws, 1992, ch. 438, § 12; Laws, 1995, ch. 503, § 12; reenacted without change, Laws, 2000, ch. 484, § 12; brought forward without change, Laws, 2005, ch. 460, § 12; Laws, 2016, ch. 510, § 48, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 48, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 48. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-14-31. Renewal of licenses; continuing education requirement.

HISTORY: Codes, 1942, § 7129-112; Laws, 1972, ch. 523, § 12; Laws, 1978, ch. 349, § 1; Laws, 1979, ch. 445, § 11; reenacted, Laws, 1983, ch. 486, § 13; Laws, 1986, ch. 371, § 12; reenacted, Laws, 1991, ch. 351, § 13; Laws, 1992, ch. 438, § 13; Laws, 1995, ch. 503, § 13; reenacted without change, Laws, 2000, ch. 484, § 13; brought forward without change, Laws, 2005, ch. 460, § 13; Laws, 2007, ch. 309, § 13; Laws, 2016, ch. 510, § 49, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 49, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 49. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 15.

NURSES

Article 1. Regulation of Practice of Nursing. 73-15-1
Article 3. Hemodialysis Technicians. 73-15-101
Article 5. Nurse Licensure Compact. 73-15-201

ARTICLE 1.

REGULATION OF PRACTICE OF NURSING.

Sec.
73-15-11. Organization of board; election of officers; regular and special meetings; quorum; examinations; compensation of members.
73-15-25. Approval of schools of practical nursing.
73-15-29. Grounds for denying, revoking, or suspending license; penalties for engaging in prohibited conduct; alternative to discipline program for licensees who have impairment as result of substance abuse or mental health condition; program components [Paragraph (1)(n) repealed effective July 1, 2025].

§ 73-15-11. Organization of board; election of officers; regular and special meetings; quorum; examinations; compensation of members.

(1) The members of the Mississippi Board of Nursing shall meet annually and organize for the ensuing year by election of one (1) of its members as president, one (1) as secretary, and one (1) as treasurer. The physician member and the representative of consumers of health services may discuss and nominate but shall not vote for officers nor hold office in such elections.

(2) The board shall meet at least once every four (4) months for the purpose of transacting such business as may come before the board. Any member who shall not attend two (2) consecutive meetings of the board shall be subject to removal by the Governor. The president of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings.

(3) Special meetings of the board may be held on call of the president or upon call of any seven (7) members. A notice of time, place and purpose of any special meeting shall be provided by the executive director to all members of the board.

(4) On all matters the board shall function as a board of thirteen (13) members, and seven (7) members, including at least three (3) registered nurses and two (2) practical nurses, shall constitute a quorum. In any case, the affirmative vote of a majority of the members present and participating shall be necessary to take action. In all cases pertaining to practical nursing, such majority must include the affirmative vote of at least one (1) of the practical nurse members of the board.

(5) The board shall hold not less than two (2) examinations each year for registered nurses and not less than two (2) each year for licensed practical nurses, at such times and places as the board may determine.

(6) Each member of the board shall receive a per diem compensation as provided in Section 25-3-69 for attendance at board meetings, together with necessary travel and other expenses incurred in the discharge of his or her duties as a board member.

HISTORY: Codes, 1942, § 8806-06; Laws, 1970, ch. 420, § 6; Laws, 1976, ch. 356, § 3; Laws, 1981, ch. 449, § 5; Laws, 1983, ch. 485, § 6; Laws, 1988, ch. 469, § 2; reenacted, Laws, 1991, ch. 465, § 6, eff from and after July 1, 1991; Laws, 2020, ch. 374, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (3), deleted “written” preceding “notice of time,” substituted “shall be provided” for “shall be mailed” and deleted “not less than ten (10) days before the meeting is held” from the end.

§ 73-15-25. Approval of schools of practical nursing.

Beginning on July 1, 2019, in addition to all other powers and duties now vested by law in the State Department of Education, it is hereby empowered and required, acting in this behalf by and through its Division of Vocational Education, to:

1. Contract with the Mississippi Board of Nursing to establish by rules and regulations and promulgate uniform standards for the accreditation of schools of practical nursing in this state insofar as concerns the eligibility of graduates of such schools to take the examination to become licensed practical nurses;

2. Contract with the Mississippi Board of Nursing to issue to such schools certificates of accreditation as may be proper under such standards.

HISTORY: Codes, 1942, § 8806-13; Laws, 1970, ch. 420, § 13; reenacted, 1983, ch. 485, § 12; reenacted, Laws, 1991, ch. 465, § 12; Laws, 2010, ch. 464, § 4; Laws, 2014, ch. 397, § 63, eff from and after July 1, 2014; Laws, 2018, ch. 353, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment added "Beginning on July 1, 2019" at the beginning of the first paragraph; and substituted "Mississippi Board of Nursing" for "Mississippi Community College Board" in 1. and 2.

§ 73-15-29. Grounds for denying, revoking, or suspending license; penalties for engaging in prohibited conduct; alternative to discipline program for licensees who have impairment as result of substance abuse or mental health condition; program components [Paragraph (1)(n) repealed effective July 1, 2025].

(1) The board shall have power to revoke, suspend or refuse to renew any license issued by the board, or to revoke or suspend any privilege to practice, or to deny an application for a license, or to fine, place on probation and/or discipline a licensee, in any manner specified in this article, upon proof that such person:

(a) Has committed fraud or deceit in securing or attempting to secure such license;

(b) Has been convicted of a felony, or a crime involving moral turpitude or has had accepted by a court a plea of nolo contendere to a felony or a crime involving moral turpitude (a certified copy of the judgment of the court of competent jurisdiction of such conviction or pleas shall be prima facie evidence of such conviction);

(c) Has negligently or willfully acted in a manner inconsistent with the health or safety of the persons under the licensee's care;

(d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse or licensed practical nurse in any jurisdiction or has been placed under a disciplinary order(s) in any manner as a registered nurse or licensed practical nurse in any jurisdiction, (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

(e) Has negligently or willfully practiced nursing in a manner that fails to meet generally accepted standards of such nursing practice;

(f) Has negligently or willfully violated any order, rule or regulation of the board pertaining to nursing practice or licensure;

(g) Has falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on records;

(h) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect, or has misappropriated any medication;

(i) Has a physical, mental or emotional condition that renders the licensee unable to perform nursing services or duties with reasonable skill and safety;

(j) Has engaged in any other conduct, whether of the same or of a different character from that specified in this article, that would constitute a crime as defined in Title 97 of the Mississippi Code of 1972, as now or hereafter amended, and that relates to such person's employment as a registered nurse or licensed practical nurse;

(k) Engages in conduct likely to deceive, defraud or harm the public;

(*l*) Engages in any unprofessional conduct as identified by the board in its rules;

(m) Has violated any provision of this article; or

(n) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) When the board finds any person unqualified because of any of the grounds set forth in subsection (1) of this section, it may enter an order imposing one or more of the following penalties:

(a) Denying application for a license or other authorization to practice nursing or practical nursing;

(b) Administering a reprimand;

(c) Suspending or restricting the license or other authorization to practice as a registered nurse or licensed practical nurse for up to two (2) years without review;

(d) Revoking the license or other authorization to practice nursing or practical nursing;

(e) Requiring the disciplinee to submit to care, counseling or treatment by persons and/or agencies approved or designated by the board as a condition for initial, continued or renewed licensure or other authorization to practice nursing or practical nursing;

(f) Requiring the disciplinee to participate in a program of education prescribed by the board as a condition for initial, continued or renewed licensure or other authorization to practice;

(g) Requiring the disciplinee to practice under the supervision of a registered nurse for a specified period of time; or

(h) Imposing a fine not to exceed Five Hundred Dollars ($500.00).

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license or privilege to practice of any

licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(4) If the public health, safety or welfare imperatively requires emergency action and the board incorporates a finding to that effect in an order, the board may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined by the board.

(5) The board may establish by rule an alternative to discipline program for licensees who have an impairment as a result of substance abuse or a mental health condition, which program shall include at least the following components:

(a) Participation in the program is voluntary with the licensee, and the licensee must enter the program before the board holds a disciplinary action hearing regarding the licensee;

(b) The full cost of participation in the program, including the cost of any care, counseling, treatment and/or education received by the licensee, shall be borne by the licensee;

(c) All of the procedures and records regarding the licensee's participation in the program shall be confidential, shall not be disclosed and shall be exempt from the provisions of the Mississippi Public Records Act of 1983; and

(d) A licensee may not participate in the program more often than one (1) time during any period of five (5) years or such longer period as set by the board.

HISTORY: Codes, 1942, § 8806-15; Laws, 1970, ch. 420, § 15; Laws, 1976, ch. 356, § 7; Laws, 1981, ch. 449, § 12; Laws, 1983, ch. 485, § 14; reenacted, Laws, 1991, ch. 465, § 14; Laws, 1996, ch. 507, § 42; Laws, 2000, ch. 482, § 8; Laws, 2006, ch. 343, § 4; Laws, 2012, ch. 409, § 12; Laws, 2016, ch. 419, § 9, eff from and after July 1, 2016; Laws, 2019, ch. 378, § 1, eff from and after July 1, 2019; Laws, 2020, ch. 393, § 9, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment inserted "a" following "convicted of" in (1)(b); and added (5).

The 2020 amendment extended the date of the repealer for paragraph (1)(n) by substituting "July 1, 2025" for "July 1, 2020."

JUDICIAL DECISIONS

1. In general.

Chancery court erred in reversing the decision of the Mississippi State Board of Nursing, which found a nurse guilty of violating the statute because the Board's decision was supported by substantial evidence and thus, not arbitrary and capricious; the Board found that the nurse's positive test result provided clear and convincing evidence that she had converted Demerol to her own use, and the results established substantial evidence to support the Board's decision. State Bd. of Nursing v. Hobson, 283 So. 3d 290, 2019 Miss. App. LEXIS 458 (Miss. Ct. App. 2019).

ARTICLE 3.

HEMODIALYSIS TECHNICIANS.

Sec.
73-15-101. Repealed.

§ 73-15-101. Repealed.

Repealed by Laws, 2019, ch. 375, § 2, eff from and after July 1, 2019.

§ 73-15-101. [Laws, 2006, ch. 413, § 1; Laws, 2013, ch. 350, § 18, eff from and after July 1, 2013.]

Editor's Notes — Former § 73-15-101 provided for the certification of hemodialysis technicians by the Mississippi Board of Nursing. For present similar provisions, see § 73-77-1.

ARTICLE 5.

NURSE LICENSURE COMPACT.

Sec.
73-15-201. Nurse licensure compact.

§ 73-15-201. Nurse licensure compact.

The Nurse Licensure Compact is enacted into law and entered into by this state with any and all states legally joining in the compact in accordance with its term, in the form substantially as follows:

ARTICLE I.

Findings and declaration of purpose.

(a) The party states find that:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;

2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;

5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

6. Decrease redundancies in the consideration and issuance of nurse licenses; and

7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II.

Definitions.

As used in this compact:

(a) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(b) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

(c) "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(d) "Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(e) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(f) "Home state" means the party state which is the nurse's primary state of residence.

(g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(h) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(i) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

(j) "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

(k) "Party state" means any state that has adopted this compact.

(*l*) "Remote state" means a party state, other than the home state.

(m) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(n) "State" means a state, territory or possession of the United States and the District of Columbia.

(o) "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III.

General provisions and jurisdiction.

(a) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

2.(i) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

4. Has successfully passed a National Council Licensure Examination-Registered Nurse (NCLEX-RN®) or National Council Licensure Examination-Practical Nurse (NCLEX-PN®) Examination or recognized predecessor, as applicable;

5. Is eligible for or holds an active, unencumbered license;

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

9. Is not currently enrolled in an alternative program;

10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

11. Has a valid United States social security number.

(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

1. A nurse, who changes primary state of residence after this compact's effective date, must meet all applicable Article III(c) requirements to obtain a multistate license from a new home state.
2. A nurse who fails to satisfy the multistate licensure requirements in subsection (c) of this article due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("commission").

ARTICLE IV.

Applications for licensure in a party state.

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.

(c) If a nurse changes primary state of residence by moving between two (2) party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

1. The nurse may apply for licensure in advance of a change in primary state of residence.
2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V.

Additional authorities invested in party state licensing boards.

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

1. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.
   (i) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.
   (ii) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state.
   In so doing, the home state shall apply its own state laws to determine appropriate action.
2. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.
3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence.
   Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable

to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

6. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(b) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(c) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI.

Coordinated licensure information system and exchange of information.

(a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation; and
4. Other information that may facilitate the administration of this compact, as determined by commission rules.

(i) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII.

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators.

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

1. The commission is an instrumentality of the party states.
2. Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting and meetings.

1. Each party state shall have and be limited to one (1) administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

5. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(i) Noncompliance of a party state with its obligations under this compact;

(ii) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current, threatened or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(x) Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

1. Establishing the fiscal year of the commission;

2. Providing reasonable standards and procedures:

(i) For the establishment and meetings of other committees; and

(ii) Governing any general or specific delegation of any authority or function of the commission;

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission; and

6. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations;

(d) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

(e) The commission shall maintain its financial records in accordance with the bylaws.

(f) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(g) The commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

2. To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including, but not limited to, sharing administrative or staff expenses, office space or other resources;

6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

10. To establish a budget and make expenditures;

11. To borrow money;

12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

13. To provide and receive information from, and to cooperate with, law enforcement agencies;

14. To adopt and use an official seal; and

15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the commission.

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

2. The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff

in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

3. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(i) Qualified immunity, defense and indemnification.

1. The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

2. The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII.

Rulemaking.

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(c) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission; and
2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment, and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The commission shall publish the place, time and date of the scheduled public hearing.

1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

   All hearings will be recorded, and a copy will be made available upon request.
2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(h) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;
2. Prevent a loss of commission or party state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(*l*) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE IX.

Oversight, dispute resolution and enforcement.

(a) Oversight:

1. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.
2. The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination:

1. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:
   (i) Provide written notice to the defaulting state and other party

states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the Governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) Dispute resolution:

1. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

3. In the event the commission cannot resolve disputes among party states arising under this compact:

(i) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement:

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws.

The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X.

Effective date, withdrawal and amendment.

(a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this compact, that also were parties to the prior Nurse Licensure Compact, superseded by this compact, ("prior compact"), shall be deemed to have withdrawn from the prior compact within six (6) months after the effective date of this compact.

(b) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(d) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(f) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

ARTICLE XI.

Construction and severability.

This compact shall be liberally construed so as to effectuate the purposes thereof.

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the Constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

HISTORY: Laws, 2017, ch. 359, § 1, eff from and after July 20, 2017.

CHAPTER 17.

NURSING HOME ADMINISTRATORS

Sec.

73-17-11. Licensing of administrators; qualifications; examination; reciprocity; fees [Repealed effective July 1, 2021].

§ 73-17-11. Licensing of administrators; qualifications; examination; reciprocity; fees [Repealed effective July 1, 2021].

(1) From and after July 1, 2011, in order to be eligible to be licensed as a nursing home administrator, an individual must submit evidence satisfactory to the board that he or she:

(a) Is at least twenty-one (21) years of age;

(b) Is of good moral character, including evidence of a criminal background check within the last six (6) months, under Section 43-11-13 and Section G.407.3 of the Minimum Standards for Institutions for the Aged or Infirm;

(c) Is in good health;

(d) Has satisfied at least one (1) of the following requirements for education and experience:

(i) Has sixty-four (64) hours of college work from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years immediately before making application for the Administrator-in-Training Program established by board rule;

(ii) Has an associate degree from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years immediately before making application for the Administrator-in-Training Program established by board rule;

(iii) Has a bachelor's degree in any other field of study from an accredited institution before making application for the Administrator-in-Training Program established by board rule; or

(iv) Has a bachelor's degree in health care administration or a health care related field or business from an accredited institution before making application for the Administrator-in-Training Program established by board rule;

(e) Has (i) completed a nursing home Administrator-in-Training Program and successfully completed the National Association of Long-Term Care Administrator Board (NAB) examination, or (ii) completed an Administrator-in-Training Program in Long-Term Care Administration from an academic institution during which time the institution held National Association of Long-Term Care Administrator Board (NAB) Program Approval through the academic approval process, to the satisfaction of the board;

(f) Has successfully passed the National Association of Long-Term Care Administrator Board (NAB) examination and the Mississippi State Board of Nursing Home Administrators examination to test his or her proficiency and basic knowledge in the area of nursing home administration. The board may establish the frequency of the offering of those examinations and the contents thereof; and

(g) Has met all of the requirements established by federal law.

(2) Reciprocity shall be extended to individuals holding licenses as nursing home administrators in other states, upon proper application and a finding on the part of the board that:

(a) The applicant possesses the basic qualifications listed in this chapter and in the rules and regulations adopted under federal law;

(b) The applicant has met all of the requirements established by federal law; and

(c) The standards for licensure in the other states are at least the substantial equivalent of those in this state, including education and experience, and the applicant has passed both the National Association of Long-Term Care Administrator Board (NAB) and the state exams.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(3) The board may prescribe appropriate fees for the taking of those examinations and for the issuance of licenses. Those fees shall be not more than the cost of the examinations and Five Hundred Dollars ($500.00) for the issuance of a license. However, the fee for an initial license may be prorated in proportion to the period of time from the date of issuance and the date of biennial license renewal prescribed in subsection (4). All licenses issued under this chapter shall be for a maximum period of two (2) years.

(4) Except as provided in Section 33-1-39, the board may renew licenses biennially upon the payment of a fee to be established by the board, which shall

be not more than Five Hundred Dollars ($500.00), plus any administrative costs for late payment.

(5) Any person who is not licensed under this chapter on July 1, 2011, who makes application with the board on or before June 30, 2012, may qualify for a license under this chapter provided that on or before January 31, 2014, he or she demonstrates to the satisfaction of the board that he or she (a) meets the eligibility requirements for a nursing home administrator's license prescribed in this section as those requirements existed on June 30, 2011; (b) has successfully completed the Administrator-in-Training Program requirements existing on June 30, 2011; and (c) has paid all required fees for licensure.

(6) Current licensure by the Department of Mental Health under Section 41-4-7(r) as a mental health/intellectual disability program administrator shall exempt the licensee from the requirement of licensure as a nursing home administrator if the licensee is employed in the state mental health system as Administrator of Intermediate Care Facility or Facilities for Persons with Intellectual Disabilities (ICF/ID) no larger than sixteen (16) beds.

(7) This section shall stand repealed on July 1, 2021.

HISTORY: Codes, 1942, § 8831-106; Laws, 1970, ch. 414, § 6; reenacted and amended, Laws, 1983, ch. 390, § 6; Laws, 1984, ch. 361; Laws, 1988, ch. 424; reenacted, Laws, 1991, ch. 466, § 6; Laws, 1996, ch. 458, § 1; Laws, 1997, ch. 588, § 44; Laws, 2002, ch. 578, § 1; Laws, 2007, ch. 309, § 15; Laws, 2011, ch. 542, § 1; Laws, 2012, ch. 367, § 1; Laws, 2013, ch. 350, § 19; Laws, 2015, ch. 435, § 1, eff from and after July 1, 2015; Laws, 2018, ch. 338, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment extended the date of the repealer for the section by substituting "July 1, 2021" for "July 1, 2018" in (7).

CHAPTER 19.

OPTOMETRY AND OPTOMETRISTS

General Provisions. 73-19-1

GENERAL PROVISIONS

Sec.
73-19-23. License refused or revoked; criminal history records check; disciplinary action.
73-19-25. Certificates of other states; when and how recognized.

§ 73-19-23. License refused or revoked; criminal history records check; disciplinary action.

(1)(a) The board shall refuse to grant a certificate of licensure to any applicant and may cancel, revoke or suspend the operation of any certificate by it granted for any or all of the following reasons: unprofessional and unethical conduct or the conviction of a crime involving moral turpitude, habitual intemperance in the use of ardent spirits, or stimulants, narcotics, or any other substance that impairs the intellect and judgment to such an extent as to incapacitate one for the performance of the duties of an optometrist. The certificate of licensure of any person can be revoked for violating any section of this chapter.

(b) The board shall conduct a criminal history records check on licensure applicants and on licensees whose licenses are subject to investigation.

(i) The applicant or licensee shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant or licensee shall submit a full set of the applicant's fingerprints in a form or manner prescribed by the board, which shall be forwarded to the Bureau of Investigation Identification Division for this purpose.

(ii) Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or licensee or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

(iii) The board shall provide to the department the fingerprints of the applicant or licensee, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

(iv) The board shall charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant or licensee.

(2) The board shall further be authorized to take disciplinary action against a licensee for any unlawful acts, which shall include violations of regulations promulgated by the board, as well as the following acts:

(a) Fraud or misrepresentation in applying for or procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.

(b) Cheating on or attempting to subvert the optometric licensing examination(s).

(c) The conviction of a felony in this state or any other jurisdiction, or the entry of a guilty or nolo contendere plea to a felony charge.

(d) The conviction of a felony as defined by federal law, or the entry of a guilty or nolo contendere plea to a felony charge.

(e) Conduct likely to deceive, defraud or harm the public.

(f) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, device, treatment or remedy prescribed by him or her or used at his or her direction in the treatment of any disease or other condition.

(g) Willfully or negligently violating the confidentiality between doctor and patient, except as required by law.

(h) Negligence or gross incompetence in the practice of optometry as determined by the board.

(i) Being found to be a person with mental illness or with an intellectual disability by any court of competent jurisdiction.

(j) The use of any false, fraudulent, deceptive or misleading statement in any document connected with the practice of optometry.

(k) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.

(*l*) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of optometry.

(m) Being addicted or habituated to a drug or intoxicant.

(n) Violating any state or federal law or regulation relating to a drug legally classified as a controlled substance.

(o) Obtaining any fee by fraud, deceit or misrepresentation.

(p) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this chapter, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

(q) Failure to report to the board the relocation of his or her office in or out of the jurisdiction, or to furnish floor plans as required by regulation.

(r) Violation of any provision(s) of the Optometry Practice Act or the rules and regulations of the board or of an action, stipulation or agreement of the board.

(s) To advertise in a manner that tends to deceive, mislead or defraud the public.

(t) The designation of any person licensed under this chapter, other than by the terms "optometrist," "Doctor of Optometry" or "O.D.," which through June 30, 2025, shall include any violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(u) To knowingly submit or cause to be submitted any misleading, deceptive or fraudulent representation on a claim form, bill or statement.

(v) To practice or attempt to practice optometry while his or her license is suspended.

(3) Any person who is a holder of a certificate of licensure or who is an applicant for examination for a certificate of licensure, against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing in Jackson, Mississippi, before the board, at which hearing he may be represented by counsel. At the hearing, witnesses

may be examined for and against the accused respecting those charges, and the hearing orders or appeals will be conducted according to the procedure now provided in Section 73-25-27. The suspension of a certificate of licensure by reason of the use of stimulants or narcotics may be removed when the holder of the certificate has been adjudged by the board to be cured and capable of practicing optometry.

(4) In addition to the reasons specified in subsections (1) and (2) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, Hemingway's 1921 Supp. § 6124l; 1930, § 5663; 1942, § 8843; Laws, 1920, ch. 217; Laws, 1956, ch. 305, § 6; reenacted, Laws, 1983, ch. 438, § 12; Laws, 1991, ch. 303, § 12; Laws, 1996, ch. 507, § 45; Laws, 2008, ch. 442, § 20; Laws, 2010, ch. 476, § 75; Laws, 2012, ch. 409, § 13; Laws, 2016, ch. 419, § 10, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 10, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment redesignated former (1) as (1)(a) and added (1)(b); in (2)(t), substituted "June 30, 2025" for "June 30, 2020"; and in the first sentence of (3), inserted "a" following "Any person who is."

§ 73-19-25. Certificates of other states; when and how recognized.

An applicant for a certificate of licensure who has been examined by the state board of another state which, through reciprocity, similarly accredits the holder of a certificate issued by the board of this state to the full privileges of practice within such state, on the payment of a fee of not more than Fifty Dollars ($50.00) to the board and on filing in the office of the board a true and attested copy of the license, certified by the president or secretary of the state board issuing the same, and showing also that the standard requirements adopted and enforced by the board are equal to that provided by this state, may, without further examination, receive a certificate of licensure, provided that such applicant has not previously failed at an examination held by the board of this state. The issuance of a certificate of licensure by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

HISTORY: Codes, Hemingway's 1921 Supp. § 6124m; 1930, § 5664; 1942, § 8844; Laws, 1920, ch. 217; Laws, 1956, ch. 305, § 7; reenacted and amended, Laws, 1983, ch. 438, § 13; reenacted, Laws, 1991, ch. 303, § 13; Laws, 2013, ch. 350, § 20, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the first sentence by substituting “copy of the license” for “copy of the the license.” The Joint Committee ratified the correction at its October 19, 2020, meeting.

CHAPTER 21.

PHARMACISTS

Mississippi Pharmacy Practice Act. 73-21-69
Pharmacy Benefit Prompt Pay Act. 73-21-151
Prescription Drugs Consumer Affordable Alternative Payment Options Act. 73-21-201

MISSISSIPPI PHARMACY PRACTICE ACT

Sec.

73-21-69. Repeal of Sections 73-21-71 through 73-21-129.
73-21-73. Definitions [Repealed effective July 1, 2025].
73-21-81. General powers and duties of board; enforcement of chapter; rules and regulations [Repealed effective July 1, 2025].
73-21-85. Requirements for pharmacist’s license by examination or score transfer; licensing of foreign pharmacy graduates; criminal background checks [Repealed effective July 1, 2025].
73-21-111. Personnel regulations; registration of pharmacy technicians; annual registration fee; criminal background checks [Repealed effective July 1, 2025].
73-21-117. Substitution of generic equivalent drug or interchangeable biological product; notice to prescriber that biological product was dispensed [Repealed effective July 1, 2025].
73-21-119. Labeling of drug products, biological products, and interchangeable biological products sold at retail [Repealed effective July 1, 2025].
73-21-123. Sales of certain drugs not regulated [Repealed effective July 1, 2025].
73-21-126. Rules and regulations for issuance and renewal of licenses and permits for in and out of state wholesale distributors, chain pharmacy warehouses and re-packagers [Repealed effective July 1, 2025].
73-21-127. Board of Pharmacy to develop and implement computerized program to track certain prescriptions; report of suspected abuse and misuse of controlled substances; access to collected data; confidentiality; penalties for knowingly failing to submit or submitting incorrect dispensing information [Repealed effective July 1, 2025].

§ 73-21-69. Repeal of Sections 73-21-71 through 73-21-129.

Sections 73-21-71 through 73-21-129, which create the State Board of Pharmacy and prescribe its duties and powers, shall stand repealed on July 1, 2025.

HISTORY: Laws, 1979, ch. 301, § 37; Laws, 1979, ch. 357, § 17; Laws, 1983, ch. 414, § 28; Laws, 1991, ch. 527, § 28; Laws, 1993, ch. 416, § 1; Laws, 1998, ch. 511, § 1; Laws, 2002, ch. 501, § 1; Laws, 2006, ch. 533, § 1; Laws, 2011, ch. 546, § 1;

Laws, 2016, ch. 448, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 419, § 34, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment extended the date of the repealer for §§ 73-21-71 through 73-21-129 by substituting "July 1, 2025" for "July 1, 2020."

§ 73-21-71. Short title [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 1; reenacted without change, Laws, 1991, ch. 527, § 1; reenacted without change, Laws, 1993, ch. 416, § 2; reenacted without change, Laws, 1998, ch. 511, § 2; reenacted without change, Laws, 2002, ch. 501, § 2; reenacted without change, Laws, 2006, ch. 533, § 2; reenacted without change, Laws, 2011, ch. 546, § 2; reenacted without change, Laws, 2016, ch. 448, § 2, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 1, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 1. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-73. Definitions [Repealed effective July 1, 2025].

As used in this chapter, unless the context requires otherwise:

(a) "Administer" means the direct application of a prescription drug pursuant to a lawful order of a practitioner to the body of a patient by injection, inhalation, ingestion or any other means.

(b) "Biological product" means the same as that term is defined in 42 USC Section 262.

(c) "Board of Pharmacy," "Pharmacy Board," "MSBP" or "board" means the State Board of Pharmacy.

(d) "Compounding" means (i) the production, preparation, propagation, conversion or processing of a sterile or nonsterile drug or device either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis or from bulk chemicals or the preparation, mixing, measuring, assembling, packaging or labeling of a drug or device as a result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or (ii) for the purpose of, as an incident to, research, teaching or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine regularly observed prescribing patterns.

(e) "Continuing education unit" means ten (10) clock hours of study or other such activity as may be approved by the board, including, but not limited to, all programs which have been approved by the American Council on Pharmaceutical Education.

(f) "Deliver" or "delivery" means the actual, constructive or attempted transfer in any manner of a drug or device from one person to another, whether or not for a consideration, including, but not limited to, delivery by mailing or shipping.

(g) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(h) "Dispense" or "dispensing" means the interpretation of a valid prescription of a practitioner by a pharmacist and the subsequent preparation of the drug or device for administration to or use by a patient or other individual entitled to receive the drug.

(i) "Distribute" means the delivery of a drug or device other than by administering or dispensing to persons other than the ultimate consumer.

(j) "Drug" means:

(i) Articles recognized as drugs in the official United States Pharmacopeia, official National Formulary, official Homeopathic Pharmacopeia, other drug compendium or any supplement to any of them;

(ii) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(iii) Articles other than food intended to affect the structure or any function of the body of man or other animals; and

(iv) Articles intended for use as a component of any articles specified in subparagraph (i), (ii) or (iii) of this paragraph.

(k) "Drugroom" means a business, which does not require the services of a pharmacist, where prescription drugs or prescription devices are bought, sold, maintained or provided to consumers.

(*l*) "Extern" means a student in the professional program of a school of pharmacy accredited by the American Council on Pharmaceutical Education who is making normal progress toward completion of a professional degree in pharmacy.

(m) "Foreign pharmacy graduate" means a person whose undergraduate pharmacy degree was conferred by a recognized school of pharmacy outside of the United States, the District of Columbia and Puerto Rico. Recognized schools of pharmacy are those colleges and universities listed in the World Health Organization's World Directory of Schools of Pharmacy, or otherwise approved by the Foreign Pharmacy Graduate Examination Committee (FPGEC) certification program as established by the National Association of Boards of Pharmacy.

(n) "Generic equivalent drug product" means a drug product which (i) contains the identical active chemical ingredient of the same strength, quantity and dosage form; (ii) is of the same generic drug name as determined by the United States Adoptive Names and accepted by the United States Food and Drug Administration; and (iii) conforms to such rules and regulations as may be adopted by the board for the protection of the public to assure that such drug product is therapeutically equivalent.

(o) "Interchangeable biological product" or "I.B." means a biological product that the federal Food and Drug Administration:

(i) Has licensed and determined as meeting the standards for interchangeability under 42 USC Section 262(k)(4); or

(ii) Has determined is therapeutically equivalent as set forth in the latest edition of or supplement to the federal Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations.

(p) "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol to such protocol, to communicate information of all kinds by wire or radio.

(q) "Interested directly" means being employed by, having full or partial ownership of, or control of, any facility permitted or licensed by the Mississippi State Board of Pharmacy.

(r) "Interested indirectly" means having a spouse who is employed by any facility permitted or licensed by the Mississippi State Board of Pharmacy.

(s) "Intern" means a person who has graduated from a school of pharmacy but has not yet become licensed as a pharmacist.

(t) "Manufacturer" means a person, business or other entity engaged in the production, preparation, propagation, conversion or processing of a prescription drug or device, if such actions are associated with promotion and marketing of such drugs or devices.

(u) "Manufacturer's distributor" means any person or business who is not an employee of a manufacturer, but who distributes sample drugs or devices, as defined under subsection (i) of this section, under contract or business arrangement for a manufacturer to practitioners.

(v) "Manufacturing" of prescription products means the production, preparation, propagation, conversion or processing of a drug or device, either directly or indirectly, by extraction from substances from natural origin or independently by means of chemical or biological synthesis, or from bulk chemicals and includes any packaging or repackaging of the substance(s) or labeling or relabeling of its container, if such actions are associated with promotion and marketing of such drug or devices.

(w) "Misappropriation of a prescription drug" means to illegally or unlawfully convert a drug, as defined in subsection (i) of this section, to one's own use or to the use of another.

(x) "Nonprescription drugs" means nonnarcotic medicines or drugs that may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government.

(y) "Person" means an individual, corporation, partnership, association or any other legal entity.

(z) "Pharmacist" means an individual health care provider licensed by this state to engage in the practice of pharmacy. This recognizes a pharmacist as a learned professional who is authorized to provide patient services.

(aa) "Pharmacy" means any location for which a pharmacy permit is required and in which prescription drugs are maintained, compounded and dispensed for patients by a pharmacist. This definition includes any location where pharmacy-related services are provided by a pharmacist.

(bb) "Prepackaging" means the act of placing small precounted quantities of drug products in containers suitable for dispensing or administering in anticipation of prescriptions or orders.

(cc) "Unlawful or unauthorized possession" means physical holding or control by a pharmacist of a controlled substance outside the usual and lawful course of employment.

(dd) "Practice of pharmacy" means a health care service that includes, but is not limited to, the compounding, dispensing, and labeling of drugs or devices; interpreting and evaluating prescriptions; administering and distributing drugs and devices; the compounding, dispensing and labeling of drugs and devices; maintaining prescription drug records; advising and consulting concerning therapeutic values, content, hazards and uses of drugs and devices; initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved by the board; selecting drugs; participating in drug utilization reviews; storing prescription drugs and devices; ordering lab work in accordance with written guidelines or protocols as defined by paragraph (nn) of this section; providing pharmacotherapeutic consultations; supervising supportive personnel and such other acts, services, operations or transactions necessary or incidental to the conduct of the foregoing.

(ee) "Practitioner" means a physician, dentist, veterinarian, or other health care provider authorized by law to diagnose and prescribe drugs.

(ff) "Prescription" means a written, verbal or electronically transmitted order issued by a practitioner for a drug or device to be dispensed for a patient by a pharmacist. "Prescription" includes a standing order issued by a practitioner to an individual pharmacy that authorizes the pharmacy to dispense an opioid antagonist to certain persons without the person to whom the opioid antagonist is dispensed needing to have an individual prescription, as authorized by Section 41-29-319(3).

(gg) "Prescription drug" or "legend drug" means a drug which is required under federal law to be labeled with either of the following statements prior to being dispensed or delivered:

(i) "Caution: Federal law prohibits dispensing without prescription," or

(ii) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(hh) "Product selection" means the dispensing of a generic equivalent drug product or an interchangeable biological product in lieu of the drug product ordered by the prescriber.

(ii) "Provider" or "primary health care provider" includes a pharmacist who provides health care services within his or her scope of practice pursuant to state law and regulation.

(jj) "Registrant" means a pharmacy or other entity which is registered with the Mississippi State Board of Pharmacy to buy, sell or maintain controlled substances.

(kk) "Repackager" means a person registered by the Federal Food and Drug Administration as a repackager who removes a prescription drug product from its marketed container and places it into another, usually of smaller size, to be distributed to persons other than the consumer.

(ll) "Reverse distributor" means a business operator that is responsible for the receipt and appropriate return or disposal of unwanted, unneeded or outdated stocks of controlled or uncontrolled drugs from a pharmacy.

(mm) "Supportive personnel" or "pharmacist technician" means those individuals utilized in pharmacies whose responsibilities are to provide nonjudgmental technical services concerned with the preparation and distribution of drugs under the direct supervision and responsibility of a pharmacist.

(nn) "Written guideline or protocol" means an agreement in which any practitioner authorized to prescribe drugs delegates to a pharmacist authority to conduct specific prescribing functions in an institutional setting, or with individual patients, provided that a specific protocol agreement is signed on each patient and is filed as required by law or by rule or regulation of the board.

(oo) "Wholesaler" means a person who buys or otherwise acquires prescription drugs or prescription devices for resale or distribution, or for repackaging for resale or distribution, to persons other than consumers.

(pp) "Pharmacy benefit manager" has the same meaning as defined in Section 73-21-153.

HISTORY: Laws, 1983, ch. 414, § 2; Laws, 1984, ch. 354, § 1; Laws, 1991, ch. 527, § 2; Laws, 1993, ch. 416, § 3; Laws, 1994, ch. 513, § 1; Laws, 1995, ch. 513, § 1; reenacted without change, Laws, 1998, ch. 511, § 3; reenacted without change, Laws, 2002, ch. 501, § 3; reenacted without change, Laws, 2006, ch. 533, § 3; Laws, 2008, ch. 512, § 2; Laws, 2009, ch. 469, § 1; reenacted and amended, Laws, 2011, ch. 546, § 3; reenacted and amended, Laws, 2016, ch. 448, § 3; Laws, 2017, ch. 346, § 3, eff from and after July 1, 2017; Laws, 2019, ch. 366, § 1, eff from and after July 1, 2019; reenacted without change, Laws, 2020, ch. 419, § 2, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment added (b) and redesignated former (b) through (m) as (c) through (n); added (o) and redesignated former (p) through (nn) as (p) through (pp); substituted "paragraph (nn)" for "paragraph (*ll*)" in (dd); and inserted "or an interchangeable biological product" in (hh).

The 2020 amendment reenacted the section without change.

§ 73-21-75. State Board of Pharmacy; number, qualifications, appointment and terms of members; appointments made from names submitted by pharmacist association; filling of vacancies; removal of members [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 3; Laws, 1991, ch. 527, § 3; Laws, 1992, ch. 531 § 1; reenacted, Laws, 1993, ch. 416, § 4; Laws, 1995, ch. 513, § 2; reenacted and amended, Laws, 1998, ch. 511, § 4; reenacted and amended, Laws, 2002, ch. 501, § 4; reenacted without change, Laws, 2006, ch. 533, § 4; reenacted and amended, Laws, 2011, ch. 546, § 4; reenacted and amended, Laws, 2016, ch. 448, § 4, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 3, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 3. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-77. Organization of board; oath; meetings; compensation and expenses of members [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 4; reenacted without change, Laws, 1991, ch. 527, § 4; Laws, 1992, ch. 531 § 2; reenacted, Laws, 1993, ch. 416, § 5; reenacted without change, Laws, 1998, ch. 511, § 5; reenacted without change, Laws, 2002, ch. 501, § 5; reenacted without change, Laws, 2006, ch. 533, § 5; reenacted without change, Laws, 2011, ch. 546, § 5; reenacted without change, Laws, 2016, ch. 448, § 5, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 4, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 4. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-79. Executive director; additional employees; legal counsel [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 5; reenacted without change, Laws, 1991, ch. 527, § 5; Laws, 1992, ch. 531 § 3; Laws, 1993, ch. 416, § 6; reenacted without change, Laws, 1998, ch. 511, § 6; reenacted without change, Laws, 2002, ch. 501, § 6; reenacted and amended, Laws, 2006, ch. 533, § 6; reenacted without change, Laws, 2011, ch. 546, § 6; reenacted without change, Laws, 2016, ch. 448, § 6, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 5, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 5. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-81. General powers and duties of board; enforcement of chapter; rules and regulations [Repealed effective July 1, 2025].

The responsibility for the enforcement of the provisions of this chapter shall be vested in the board. The board shall have all of the duties, powers and authority specifically granted by and necessary to the enforcement of this chapter. The board may make, adopt, amend and repeal such rules and regulations as may be deemed necessary by the board, from time to time, for the proper administration and enforcement of this chapter, in accordance with the provisions of the Mississippi Administrative Procedures Law (Section 25-43-1 et seq.).

HISTORY: Laws, 1983, ch. 414, § 6; reenacted without change, Laws, 1991, ch. 527, § 6; reenacted without change, Laws, 1993, ch. 416, § 7, (approved March 18, 1993); reenacted without change, Laws, 1998, ch. 511, § 7; reenacted without change, Laws, 2002, ch. 501, § 7; reenacted without change, Laws, 2006, ch. 533, § 7; reenacted without change, Laws, 2011, ch. 546, § 7; reenacted without change, Laws, 2016, ch. 448, § 7, eff from and after July 1, 2016; reenacted and amended, Laws, 2020, ch. 419, § 6, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment reenacted and amended the section by making minor punctuation changes.

§ 73-21-83. Board to regulate practice of pharmacy; licensing of pharmacists; fees; persons holding license on July 1, 1991 [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 7; Laws, 1991, ch. 527, § 7; Laws, 1993, ch. 416, § 8; Laws, 1994, ch. 513, § 2; Laws, 1997, ch. 441, § 1; reenacted without change, Laws, 1998, ch. 511, § 8; reenacted without change, Laws, 2002, ch. 501, § 8; reenacted without change, Laws, 2006, ch. 533, § 8; reenacted and amended, Laws, 2011, ch. 546, § 29; Laws, 2013, ch. 541, § 1; reenacted and amended, Laws, 2016, ch. 448, § 8, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 7, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 7. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-85. Requirements for pharmacist's license by examination or score transfer; licensing of foreign pharmacy graduates; criminal background checks [Repealed effective July 1, 2025].

(1) To obtain a license to engage in the practice of pharmacy by examination, or by score transfer, the applicant shall:

(a) Have submitted a written application on the form prescribed by the board;

(b) Be of good moral character;

(c) Have graduated from a school or college of pharmacy accredited by the American Council of Pharmaceutical Education and have been granted a pharmacy degree therefrom;

(d) Have successfully passed an examination approved by the board;

(e) Have paid all fees specified by the board for examination, not to exceed the cost to the board of administering the examination;

(f) Have paid all fees specified by the board for licensure; and

(g) Have submitted evidence of externship and/or internship as specified by the board.

(2) To obtain a license to engage in the practice of pharmacy, a foreign pharmacy graduate applicant shall obtain the National Association of Boards of Pharmacy's Foreign Pharmacy Graduate Examination Committee's certification, which shall include, but not be limited to, successfully passing the Foreign Pharmacy Graduate Equivalency Examination and attaining a total score of at least five hundred fifty (550) on the Test of English as a Foreign Language (TOEFL), and shall:

(a) Have submitted a written application on the form prescribed by the board;

(b) Be of good moral character;

(c) Have graduated and been granted a pharmacy degree from a college or school of pharmacy recognized and approved by the National Association of Boards of Pharmacy's Foreign Pharmacy Graduate Examination Committee;

(d) Have paid all fees specified by the board for examination, not to exceed the cost to the board of administering the examination;

(e) Have successfully passed an examination approved by the board;

(f) Have completed the number of internship hours as set forth by regulations of the board; and

(g) Have paid all fees specified by the board for licensure.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(4) To insure that all applicants are of good moral character, the board shall conduct a criminal history records check on all applicants for a license. In order to determine the applicant's suitability for licensing, the applicant shall be fingerprinted. The board shall submit the fingerprints to the Department of Public Safety for a check of the state criminal records and forward to the Federal Bureau of Investigation for a check of the national criminal records. The Department of Public Safety shall disseminate the results of the state check and the national check to the board for a suitability determination. The board shall be authorized to collect from the applicant the amount of the fee that the Department of Public Safety charges the board for the fingerprinting, whether manual or electronic, and the state and national criminal history records checks.

(5) To insure that all applicants are of good moral character, the board, upon request of the Dean of the University of Mississippi School of Pharmacy,

shall be authorized to conduct a criminal history records check on all applicants for enrollment into the School of Pharmacy. In order to determine the applicant's suitability for enrollment and licensing, the applicant shall be fingerprinted. The board shall submit the fingerprints to the Department of Public Safety for a check of the state criminal records and forward to the Federal Bureau of Investigation for a check of the national criminal records. The Department of Public Safety shall disseminate the results of the state check and the national check to the board for a suitability determination and the board shall forward the results to the Dean of the School of Pharmacy. The board shall be authorized to collect from the applicant the amount of the fee that the Department of Public Safety charges the board for the fingerprinting, whether manual or electronic, and the state and national criminal history records checks.

HISTORY: Laws, 1983, ch. 414, § 8; Laws, 1985, ch. 349; Laws, 1991, ch. 527, § 8; reenacted, Laws, 1993, ch. 416, § 9; Laws, 1994, ch. 513, § 3; Laws, 1995, ch. 513, § 3; Laws, 1997, ch. 588, § 46; reenacted without change, Laws, 1998, ch. 511, § 9; reenacted without change, Laws, 2002, ch. 501, § 9; Laws, 2005, ch. 514, § 1; reenacted and amended, Laws, 2006, ch. 533, § 9; reenacted without change, Laws, 2011, ch. 546, § 8; reenacted without change, Laws, 2016, ch. 448, § 9, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 8, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the third sentence of (4) and (5) by substituting "and forward to the Federal Bureau of Investigation" for "and forwarded to the Federal Bureau of Investigation." The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-87. Requirements for pharmacist's license by reciprocity or license transfer [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 9; Laws, 1991, ch. 527, § 9; reenacted, Laws, 1993, ch. 416, § 10; Laws, 1995, ch. 513, § 4; Laws, 1997, ch. 588, § 47; reenacted without change, Laws, 1998, ch. 511, § 10; reenacted without change, Laws, 2002, ch. 501, § 10; reenacted without change, Laws, 2006, ch. 533, § 10; reenacted without change, Laws, 2011, ch. 546, § 9; Laws, 2013, ch. 350, § 21; reenacted without change, Laws, 2016, ch. 448, § 10, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 9, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 9. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-89. Requirements for pharmacist's license for graduates of University of Mississippi School of Pharmacy; termination of provisions [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 10; reenacted without change, Laws, 1991, ch. 527, § 10; reenacted without change, Laws, 1993, ch. 416, § 11; Laws, 1997, ch. 588, § 48; reenacted without change, Laws, 1998, ch. 511, § 11; reenacted without change, Laws, 2002, ch. 501, § 11; reenacted without change, Laws, 2006, ch. 533, § 11; reenacted without change, Laws, 2011, ch. 546, § 10; reenacted without change, Laws, 2016, ch. 448, § 11, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 10, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 10. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-91. Renewal of licenses; reinstatement upon failure to renew [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 11; Laws, 1991, ch. 527, § 11; Laws, 1993, ch. 416, § 12; Laws, 1997, ch. 327, § 1; Laws, 1997, ch. 588, § 49; reenacted without change, Laws, 1998, ch. 511, § 12; reenacted without change, Laws, 2002, ch. 501, § 12; reenacted and amended, Laws, 2006, ch. 533, § 12; Laws, 2007, ch. 309, § 17; Laws, 2009, ch. 377, § 1; Laws, 2010, ch. 316, § 1; reenacted and amended, Laws, 2011, ch. 546, § 30; Laws, 2013, ch. 541, § 2; reenacted and amended, Laws, 2016, ch. 448, § 12, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 11, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 11. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-93. Examination; frequency and location; scope; facilities [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 12; reenacted without change, Laws, 1991, ch. 527, § 12; reenacted without change, Laws, 1993, ch. 416, § 13; reenacted without change, Laws, 1998, ch. 511, § 13; reenacted without change, Laws, 2002, ch. 501, § 13; reenacted without change, Laws, 2006, ch. 533, § 13; reenacted without change, Laws, 2011, ch. 546, § 11; reenacted without change, Laws, 2016, ch. 448, § 13, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 12, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 12. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-95. Abolition of assistant pharmacist's license; issuance of pharmacists' licenses to persons holding such licenses [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 13; reenacted without change, Laws, 1991, ch. 527, § 13; reenacted without change, Laws, 1993, ch. 416, § 14; reenacted without change, Laws, 1998, ch. 511, § 14; reenacted without change, Laws, 2002, ch. 501, § 14; reenacted without change, Laws, 2006, ch. 533, § 14; reenacted without change, Laws, 2011, ch. 546, § 12; reenacted without change, Laws, 2016, ch. 448, § 14, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 13, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 13. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-97. Denial of renewal, suspension, revocation or restrictions on licenses, registrations or permits; grounds; warning or reprimand [Repealed effective July 1, 2025; paragraph (1)(o) repealed effective July 1, 2025].

(1) The board may refuse to issue or renew, or may suspend, reprimand, revoke or restrict the license, registration or permit of any person upon one or more of the following grounds:

(a) Unprofessional conduct as defined by the rules and regulations of the board;

(b) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, confidence and safety to the public;

(c) Being found guilty by a court of competent jurisdiction of one or more of the following:

(i) A felony;

(ii) Any act involving moral turpitude or gross immorality; or

(iii) Violation of pharmacy or drug laws of this state or rules or regulations pertaining thereto, or of statutes, rules or regulations of any other state or the federal government;

(d) Fraud or intentional misrepresentation by a licensee or permit holder in securing the issuance or renewal of a license or permit;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license;

(f) Violation of any of the provisions of this chapter or rules or regulations adopted pursuant to this chapter;

(g) Failure to comply with lawful orders of the board;

(h) Negligently or willfully acting in a manner inconsistent with the health or safety of the public;

(i) Addiction to or dependence on alcohol or controlled substances or the unauthorized use or possession of controlled substances;

(j) Misappropriation of any prescription drug;

(k) Being found guilty by the licensing agency in another state of violating the statutes, rules or regulations of that jurisdiction;

(*l*) The unlawful or unauthorized possession of a controlled substance;

(m) Willful failure to submit drug monitoring information or willful submission of incorrect dispensing information as required by the Prescription Monitoring Program under Section 73-21-127;

(n) Failure to obtain the license, registration or permit required by this chapter; or

(o) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) In lieu of suspension, revocation or restriction of a license as provided for above, the board may warn or reprimand the offending pharmacist.

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license, registration or permit of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license, registration or permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(1) The board may refuse to issue or renew, or may suspend, reprimand, revoke or restrict the license, registration or permit of any person upon one or more of the following grounds:

(a) Unprofessional conduct as defined by the rules and regulations of the board;

(b) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, confidence and safety to the public;

(c) Being found guilty by a court of competent jurisdiction of one or more of the following:

(i) A felony;

(ii) Any act involving moral turpitude or gross immorality; or

(iii) Violation of pharmacy or drug laws of this state or rules or regulations pertaining thereto, or of statutes, rules or regulations of any other state or the federal government;

(d) Fraud or intentional misrepresentation by a licensee or permit holder in securing the issuance or renewal of a license or permit;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license;

(f) Violation of any of the provisions of this chapter or rules or regulations adopted pursuant to this chapter;

(g) Failure to comply with lawful orders of the board;

(h) Negligently or willfully acting in a manner inconsistent with the health or safety of the public;

(i) Addiction to or dependence on alcohol or controlled substances or the unauthorized use or possession of controlled substances;

(j) Misappropriation of any prescription drug;

(k) Being found guilty by the licensing agency in another state of violating the statutes, rules or regulations of that jurisdiction;

(*l*) The unlawful or unauthorized possession of a controlled substance;

(m) Willful failure to submit drug monitoring information or willful submission of incorrect dispensing information as required by the Prescription Monitoring Program under Section 73-21-127;

(n) Failure to obtain the license, registration or permit required by this chapter; or

(o) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) In lieu of suspension, revocation or restriction of a license as provided for above, the board may warn or reprimand the offending pharmacist.

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license, registration or permit of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license, registration or permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Laws, 1983, ch. 414, § 14; Laws, 1991, ch. 527, § 14; Laws, 1992, ch. 531 § 4; Laws, 1993, ch. 416, § 15; Laws, 1994, ch. 513, § 4; Laws, 1996, ch. 507, § 48; reenacted without change, Laws, 1998, ch. 511, § 15; reenacted without change, Laws, 2002, ch. 501, § 15; reenacted without change, Laws, 2006, ch. 533, § 15; Laws, 2008, ch. 516, § 2; reenacted and amended, Laws, 2011, ch. 546, § 13; Laws, 2012, ch. 409, § 8; Laws, 2016, ch. 419, § 11; reenacted without change, Laws, 2016, ch. 448, § 15, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 11, eff from and after July 1, 2020; reenacted and amended, Laws 2020, ch. 419, § 14, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 11 of Chapter 393, Laws of 2020, effective from and after July 1, 2020 (approved June 29, 2020), amended this section. Section 14 of Chapter 419, Laws of 2020, effective from and after July 1, 2020 (approved June 30, 2020), reenacted and amended the section. As set out above, this section reflects the language of Section 14 of Chapter 419, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date supersedes all other amendments to the same section approved on an earlier date.

Amendment Notes — The first 2020 amendment (ch. 393), in (1)(o), extended the date of the repealer for paragraph (1)(o) by substituting "July 1, 2025" for "July 1, 2020."

The second 2020 amendment (ch. 419) reenacted and amended the section by, in (1)(o), substituting "July 1 2025" for "July 1, 2020" to extend the date of the repealer for the paragraph.

§ 73-21-99. Hearings on violations; notice; procedure [Repealed effective July 1, 2025].

(1) Disciplinary action by the board against a licensee, registrant or permit holder, or license, registration or permit shall require the following:

(a) A sworn affidavit filed with the board charging a licensee or permit holder with an act which is grounds for disciplinary action as provided in Section 73-21-97; and

(b) An order of the Investigations Review Committee of the board which shall cause the executive director of the board to fix a time and place for a hearing by the board. The executive director shall cause a written notice specifying the offense or offenses for which the licensee or permit holder is charged and notice of the time and place of the hearing to be served upon the licensee or permit holder at least thirty (30) days prior to the hearing date. Such notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last-known residence or business address of the licensee or permit holder.

(2) The board shall designate two (2) of its members to serve on a rotating, no longer than three-consecutive-month basis with the executive director and legal counsel for the board as an Investigations Review Committee, and the board's investigators shall provide status reports solely to the Investigations Review Committee during monthly meetings of the board. Such reports shall be made on all on-going investigations, and shall apply to any routine inspections which may give rise to the filing of a complaint. In the event any complaint on a licensee comes before the board for possible disciplinary action, the members of the board serving on the Investigations Review Committee which reviewed the investigation of such complaint shall recuse themselves and not participate in the disciplinary proceeding.

(3) The board acting by and through its Investigation Review Committee may, if deemed necessary, issue a letter of reprimand to any licensee, registrant or permit holder in lieu of formal action by the board.

(4) The board, acting by and through its executive director, is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the board shall extend to all parts of the state and shall be served by any person designated by the board for such service.

(5) The accused shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(6) At the hearing, the board shall administer oaths as may be necessary for the proper conduct of the hearing. All hearings shall be conducted by the

board, which shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient evidence to sustain it.

(7) Where, in any proceeding before the board, any witness fails or refuses to attend upon a subpoena issued by the board, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(8) The board shall, within thirty (30) days after conclusion of the hearing, reduce its decision to writing and forward an attested true copy thereof to the last-known residence or business address of such licensee or permit holder by way of United States first-class, certified mail, postage prepaid.

HISTORY: Laws, 1983, ch. 414, § 15; reenacted without change, Laws, 1991, ch. 527, § 15; Laws, 1992, ch. 531 § 5; Laws, 1993, ch. 416, § 16; Laws, 1994, ch. 513, § 5; reenacted without change, Laws, 1998, ch. 511, § 16; reenacted without change, Laws, 2002, ch. 501, § 16; reenacted without change, Laws, 2006, ch. 533, § 16; reenacted and amended, Laws, 2011, ch. 546, § 14; reenacted without change, Laws, 2016, ch. 448, § 16, eff from and after July 1, 2016; reenacted and amended, Laws 2020, ch. 419, § 15, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment reenacted and amended the section by making minor punctuation changes.

§ 73-21-101. Appeal from adverse action on a license, registration or permit; scope of review [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 16; Laws, 1990, ch. 514, § 1; reenacted, Laws, 1991, ch. 527, § 16; Laws, 1992, ch. 531 § 6: reenacted, Laws, 1993, ch. 416, § 17; Laws, 1994, ch. 513, § 6; Laws, 1996, ch. 507, § 49; reenacted without change, Laws, 1998, ch. 511, § 17; reenacted without change, Laws, 2002, ch. 501, § 17; reenacted without change, Laws, 2006, ch. 533, § 17; reenacted without change, Laws, 2011, ch. 546, § 15; reenacted without change, Laws, 2016, ch. 448, § 17, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 16, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 16. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-103. Penalties for violations; requirement of rehabilitation or additional education; reinstatement of licenses or permits; enforcement proceedings [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 17; Laws, 1991, ch. 527, § 17; Laws, 1992, ch.

531 § 7; Laws, 1993, ch. 416, § 18; Laws, 1994, ch. 513, § 7; Laws, 1996, ch. 507, § 50; reenacted without change, Laws, 1998, ch. 511, § 18; reenacted without change, Laws, 2002, ch. 501, § 18; Laws, 2005, ch. 355, § 1; reenacted without change, Laws, 2006, ch. 533, § 18; Laws, 2008, ch. 516, § 3; reenacted and amended, Laws, 2011, ch. 546, § 16; reenacted and amended, Laws, 2016, ch. 448, § 18, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 17, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 17. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-105. Registration of businesses where prescription drugs or devices are dispensed, sold, repackaged, manufactured, etc.; registration of reverse distributors; establishment of criteria; procedures and fees; applications; standards for operation; reports of changes of circumstances; penalties for violations; exemption of physicians, dentists, etc., from chapter [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 18; Laws, 1991, ch. 527, § 18; Laws, 1993, ch. 416, § 19; Laws, 1994, ch. 513, § 8; reenacted without change, Laws, 1998, ch. 511, § 19; reenacted without change, Laws, 2002, ch. 501, § 19; reenacted without change, Laws, 2006, ch. 533, § 19; Laws, 2008, ch. 512, § 3; Laws, 2010, ch. 555, § 1; reenacted without change, Laws, 2011, ch. 546, § 17; reenacted and amended, Laws, 2016, ch. 448, § 19, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 18, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 18. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-106. Registration requirement for nonresident pharmacies that ship, mail, or deliver drugs into state [Repealed effective July 1, 2025].

HISTORY: Laws, 1994, ch. 513, § 9; Laws, 2009, ch. 469, § 2; Laws, 2011, ch. 466, § 3; Laws, 2011, ch. 546, § 33; reenacted and amended, Laws, 2016, ch. 448, § 20, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 19, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 19. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-107. Inspection of permittee's facility and records; scope [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 19; reenacted without change, Laws, 1991,

ch. 527, § 19; reenacted without change, Laws, 1993, ch. 416, § 20; reenacted without change, Laws, 1998, ch. 511, § 21; reenacted without change, Laws, 2002, ch. 501, § 21; reenacted without change, Laws, 2006, ch. 533, § 20; reenacted without change, Laws, 2011, ch. 546, § 18; reenacted without change, Laws, 2016, ch. 448, § 21, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 20, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 20. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.
Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-108. Permit requirements for persons providing home medical equipment [Repealed effective July 1, 2025].

HISTORY: Laws, 1997, ch. 515, § 1; Laws, 1999, ch. 331, § 1; reenacted without change, Laws, 2002, 3rd Ex Sess, ch. 1, § 1; reenacted and amended, Laws, 2011, ch. 546, § 19; reenacted without change, Laws, 2016, ch. 448, § 22, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 21, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 21. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.
Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-109. Unlawful use of certain business names [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 20; reenacted without change, Laws, 1991, ch. 527, § 20; reenacted without change, Laws, 1993, ch. 416, § 21; reenacted without change, Laws, 1998, ch. 511, § 22; reenacted without change, Laws, 2002, ch. 501, § 22; reenacted without change, Laws, 2006, ch. 533, § 21; reenacted and amended, Laws, 2011, ch. 546, § 20; reenacted without change, Laws, 2016, ch. 448, § 23, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 22, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 22. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.
Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-111. Personnel regulations; registration of pharmacy technicians; annual registration fee; criminal background checks [Repealed effective July 1, 2025].

(1) The board shall make, adopt, amend and repeal, from time to time, such rules and regulations for the regulation of supportive personnel as may be deemed necessary by the board.

(2) Every person who acts or serves as a pharmacy technician in a pharmacy that is located in this state and permitted by the board shall obtain a registration from the board. To obtain a pharmacy technician registration the applicant must:

(a) Have submitted a written application on a form(s) prescribed by the board; and

(b) Be of good moral character; and

(c) Have paid the initial registration fee not to exceed One Hundred Dollars ($100.00).

(3) Each pharmacy technician shall renew his or her registration annually. To renew his or her registration, a technician must:

(a) Submit an application on a form prescribed by the board; and

(b) Pay a renewal fee not to exceed One Hundred Dollars ($100.00) for each annual registration period. The board may add a surcharge of not more than Five Dollars ($5.00) to the registration renewal fee to assist in funding a program that assists impaired pharmacists, pharmacy students and pharmacy technicians.

(4) To insure that all applicants are of good moral character, the board shall conduct a criminal history records check on all applicants for a license. In order to determine the applicant's suitability for licensing, the applicant shall be fingerprinted. The board shall submit the fingerprints to the Department of Public Safety for a check of the state criminal records and forward to the Federal Bureau of Investigation for a check of the national criminal records. The Department of Public Safety shall disseminate the results of the state check and the national check to the board for a suitability determination. The board shall be authorized to collect from the applicant the amount of the fee that the Department of Public Safety charges the board for the fingerprinting, whether manual or electronic, and the state and national criminal history records checks.

HISTORY: Laws, 1983, ch. 414, § 21; reenacted without change, Laws, 1991, ch. 527, § 21; reenacted without change, Laws, 1993, ch. 416, § 22; reenacted without change, Laws, 1998, ch. 511, § 23; reenacted and amended, Laws, 2002, ch. 501, § 23; Laws, 2005, ch. 514, § 2; reenacted without change, Laws, 2006, ch. 533, § 22; reenacted without change, Laws, 2011, ch. 546, § 21; reenacted without change, Laws, 2016, ch. 448, § 24, eff from and after July 1, 2016; reenacted and amended, Laws, 2020, ch. 419, § 23, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the third sentence of (4) by substituting "and forward to the Federal Bureau of Investigation" for "and forwarded to the Federal Bureau of Investigation." The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The 2020 amendment reenacted and amended the section by making minor punctuation changes.

§ 73-21-113. Payment and deposit into state treasury of funds received by state board of pharmacy; expenditure [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 22; Laws, 1984, ch. 488, § 277; reenacted without change, Laws, 1991, ch. 527, § 22; reenacted without change, Laws,

1993, ch. 416, § 23; reenacted without change, Laws, 1998, ch. 511, § 24; reenacted without change, Laws, 2002, ch. 501, § 24; reenacted without change, Laws, 2006, ch. 533, § 23; reenacted without change, Laws, 2011, ch. 546, § 22; reenacted without change, Laws, 2016, ch. 448, § 25, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 24, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 24. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-115. Prescription forms; execution; dispensing options; one-time emergency dispensing authority [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 23; reenacted without change, Laws, 1991, ch. 527, § 23; reenacted without change, Laws, 1993, ch. 416, § 24; Laws, 1994, ch. 513, § 10; reenacted without change, Laws, 1998, ch. 511, § 25; reenacted without change, Laws, 2002, ch. 501, § 25; reenacted without change, Laws, 2006, ch. 533, § 24; reenacted without change, Laws, 2011, ch. 546, § 23; reenacted without change, Laws, 2016, ch. 448, § 26, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 25, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 25. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-117. Substitution of generic equivalent drug or interchangeable biological product; notice to prescriber that biological product was dispensed [Repealed effective July 1, 2025].

(1) A pharmacist may select a generic equivalent drug product or an interchangeable biological product only when such selection results in lower cost to the purchaser, unless product selection is expressly prohibited by the prescriber.

(2) A pharmacist shall select a generic equivalent drug product or an interchangeable biological product when:

(a) The purchaser requests the selection of a generic equivalent drug product or an interchangeable biological product; or

(b) The prescriber has not expressly prohibited product selection; and

(c) Product selection will result in lower cost to the purchaser.

Before product selection is made, the pharmacist shall advise the purchaser of his prerogatives under this subsection.

(3) When requested by the purchaser to dispense the drug product or biological product as ordered by the prescriber, a pharmacist shall not select a generic equivalent drug product or an interchangeable biological product.

(4) Within five (5) business days following the dispensing of any biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the purchaser, including the name of the product and the manufacturer, and communicate that information to the prescriber. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber through:

(a) An interoperable electronic medical records system;

(b) An electronic prescribing technology;

(c) A pharmacist benefit management system; or

(d) A pharmacy record.

(5) Entry into an electronic records system as described in subsection (4) of this section is presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication shall not be required where:

(a) There is no federal Food and Drug Administration-approved interchangeable biological product for the product prescribed; or

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(6) The board shall maintain a link on its website to the federal Food and Drug Administration's List of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations.

HISTORY: Laws, 1983, ch. 414, § 24; reenacted without change, Laws, 1991, ch. 527, § 24; reenacted without change, Laws, 1993, ch. 416, § 25 (approved March 18, 1993); reenacted without change, Laws, 1998, ch. 511, § 26; reenacted without change, Laws, 2002, ch. 501, § 26; reenacted without change, Laws, 2006, ch. 533, § 25; reenacted without change, Laws, 2011, ch. 546, § 24; reenacted without change, Laws, 2016, ch. 448, § 27, eff from and after July 1, 2016; Laws, 2019, ch. 366, § 2, eff from and after July 1, 2019; reenacted without change, Laws, 2020, ch. 419, § 26, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment inserted "or an interchangeable biological product" in (1), (2), (2)(a) and (3); inserted "or biological product" in (3); and added (4) through (6).

The 2020 amendment reenacted the section without change.

§ 73-21-119. Labeling of drug products, biological products, and interchangeable biological products sold at retail [Repealed effective July 1, 2025].

(1) The label of the container of any drug product which is sold within the State of Mississippi for resale at retail and which requires a prescription to be dispensed at retail shall contain at a minimum the name of the manufacturer of the final dosage unit, expiration date if applicable, batch or lot number and national drug code. The label of the container of any biological product dispensed by a pharmacist shall include its nonproprietary name designated by the federal Food and Drug Administration for use and the name of the manufacturer of the product.

(2) Whenever product selection is made, the pharmacist shall indicate on the label of the dispensed container the initials "G.E." or "I.B.," as appropriate. The label for generic equivalent drugs shall include the proprietary name of the product dispensed or the generic name of the product dispensed and its manufacturer either written in full or appropriately abbreviated, unless the prescriber indicates that the name of the drug product shall not appear on the label. The label for interchangeable biological products shall include its nonproprietary name designated by the federal Food and Drug Administration for use and the name of the manufacturer of the product.

HISTORY: Laws, 1983, ch. 414, § 25; reenacted without change, Laws, 1991, ch. 527, § 25; reenacted without change, Laws, 1993, ch. 416, § 26; Laws, 1994, ch. 513, § 11; reenacted without change, Laws, 1998, ch. 511, § 27; reenacted without change, Laws, 2002, ch. 501, § 27; reenacted without change, Laws, 2006, ch. 533, § 26; reenacted without change, Laws, 2011, ch. 546, § 25; reenacted without change, Laws, 2016, ch. 448, § 28, eff from and after July 1, 2016; Laws, 2019, ch. 366, § 3, eff from and after July 1, 2019; reenacted without change, Laws, 2020, ch. 419, § 27, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment added the last sentence of (1); in (2), divided the former first sentence into the present first and second sentences by adding "or "I.B.," as appropriate. The label for generic equivalent drugs shall include," and added the last sentence.

The 2020 amendment reenacted the section without change.

§ 73-21-121. Immunity from civil or criminal liability of dispensing pharmacists and prescribers; immunity from civil liability of persons providing information to board or pharmacist organization; disclosure of information in records of board or pharmacist organization [Repealed effective July 1, 2025].

HISTORY: Laws, 1983, ch. 414, § 27; Laws, 1991, ch. 527, § 26; reenacted, Laws, 1993, ch. 416, § 27; reenacted without change, Laws, 1998, ch. 511, § 28; reenacted without change, Laws, 2002, ch. 501, § 28; reenacted without change, Laws, 2006, ch. 533, § 27; reenacted without change, Laws, 2011, ch. 546, § 26; reenacted without change, Laws, 2016, ch. 448, § 29, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 28, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 28. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-123. Sales of certain drugs not regulated [Repealed effective July 1, 2025].

Nothing in this chapter shall be construed to prevent, or in any manner interfere with, or to require a permit for the sale of nonnarcotic nonprescription drugs which may be lawfully sold under the United States Food, Drug and

Cosmetic Act (21 USCS 301 et seq. as now or hereafter amended) without a prescription, nor shall any rule or regulation be adopted by the board under the provisions of this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist in a pharmacy or otherwise apply to or interfere with the sale or distribution of such drugs.

HISTORY: Laws, 1983, ch. 414, § 27; reenacted without change, Laws, 1991, ch. 527, § 27; reenacted without change, Laws, 1993, ch. 416, § 28; reenacted without changes, Laws, 1998, ch. 511, § 29; reenacted without change, Laws, 2002, ch. 501, § 29; reenacted without change, Laws, 2006, ch. 533, § 28; reenacted without change, Laws, 2011, ch. 546, § 27; reenacted without change, Laws, 2016, ch. 448, § 30, eff from and after July 1, 2016; reenacted and amended, Laws 2020, ch. 419, § 29, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment deleted "of" following "licensed pharmacist."

§ 73-21-125. Community pharmacies and pharmacists and volunteers working therein immune from civil liability for actions arising out of provision of charitable or gratuitous pharmaceutical products [Repealed effective July 1, 2025].

HISTORY: Laws, 2005, ch. 459, § 1; brought forward without change, Laws, 2016, ch. 448, § 31, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 30, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 30. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-21-126. Rules and regulations for issuance and renewal of licenses and permits for in and out of state wholesale distributors, chain pharmacy warehouses and repackagers [Repealed effective July 1, 2025].

(1) The State Board of Pharmacy shall promulgate rules regarding the issuance and renewal of licenses and permits for new or renewal application requirements for both in- and out-of-state wholesale distributors, chain pharmacy warehouses and repackagers shipping into Mississippi. Requirements for new and/or renewal applications, if information has not been previously provided to the board, will include, but not be limited to, the following:

(a) Type of ownership (individual, partnership or corporation);

(b) Names of principal owners or officers and social security numbers;

(c) Names of designated representatives and social security numbers;

(d) Criminal background checks of applicants and designated representatives as required by rule;

(e) Copy of license in home state;

(f) Bond requirements.

(2) To ensure that all applicants are of good moral character, the board shall conduct a criminal history records check on all applicants for a license. In order to determine the applicant's suitability for licensing, the applicant shall be fingerprinted. The board shall submit the fingerprints to the Department of Public Safety for a check of the state criminal records and forward to the Federal Bureau of Investigation for a check of the national criminal records. The Department of Public Safety shall disseminate the results of the state check and the national check to the board for a suitability determination. The board shall be authorized to collect from the applicant the amount of the fee that the Department of Public Safety charges the board for the fingerprinting, whether manual or electronic, and the state and national criminal history records checks.

(3) The board shall promulgate rules for the establishment of a pedigree or electronic file to be used by wholesale distributors, chain pharmacy warehouses and repackagers for the purpose of ensuring the integrity of drugs owned, purchased, distributed, returned, transferred and sold when the products leave the normal distribution channel.

(4) The board is authorized to use an outside agency to accredit wholesale distributors and repackagers, including the National Association of Boards of Pharmacy's (NABP) Verified Accredited Wholesale Distributors (VAWD) program.

(5) Pharmacies shall not be responsible for verification or adjudication of the pedigree for pharmaceuticals.

(6) The board may exempt wholesalers accredited by the VAWD program from the above requirements.

HISTORY: Laws, 2006, ch. 533, § 30; Laws, 2016, ch. 448, § 32, eff from and after July 1, 2016; Laws, 2019, ch. 373, § 1, eff from and after July 1, 2019; reenacted without change, Laws, 2020, ch. 419, § 31, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the third sentence of (2) by substituting "and forward to the Federal Bureau of Investigation" for "and forwarded to the Federal Bureau of Investigation." The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The 2019 amendment added (2), and redesignated the remaining subsections accordingly.

The 2020 amendment reenacted the section without change.

§ 73-21-127. Board of Pharmacy to develop and implement computerized program to track certain prescriptions; report of suspected abuse and misuse of controlled substances; access to collected data; confidentiality; penalties for knowingly failing to submit or submitting incorrect dispensing information [Repealed effective July 1, 2025].

The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report suspected abuse and misuse of controlled substances in compliance with the federal regulations promulgated under authority of the National All Schedules Prescription Electronic Reporting Act of 2005 and in compliance with the federal HIPAA law, under the following conditions:

(a) Submission or reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi, except for the dispensing of controlled substance drugs by a veterinarian residing in the State of Mississippi.

(b) The prescriptions tracked shall be prescriptions for controlled substances listed in Schedule II, III, IV or V and specified noncontrolled substances identified by the State Board of Pharmacy that are dispensed to residents in the State of Mississippi by licensed pharmacies, nonresident pharmacies, institutions and dispensing practitioners, regardless of dispenser location.

(c) The Board of Pharmacy shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide them with the relevant information obtained for further investigation.

(d) The program shall provide information regarding the potential inappropriate use of controlled substances and the specified noncontrolled substances to practitioners, pharmacists-in-charge and appropriate state agencies in order to prevent the inappropriate or illegal use of these controlled substances. The specific purposes of the program shall be to: be proactive in safeguarding public health and safety; support the legitimate use of controlled substances; facilitate and encourage the identification, intervention with and treatment of individuals addicted to controlled substances and specified noncontrolled drugs; identify and prevent drug diversion; provide assistance to those state and federal law enforcement and regulatory agencies investigating cases of drug diversion or other misuse; and inform the public and health care professionals of the use and abuse trends related to controlled substance and specified noncontrolled drugs.

(e)(i) Access to collected data shall be confidential and not subject to the provisions of the federal Freedom of Information Act or the Mississippi Public Records Act. Upon request, the State Board of Pharmacy shall provide collected information to: pharmacists or practitioners who are properly registered with the State Board of Pharmacy and are authorized to prescribe or dispense controlled substances for the purpose of providing medical and pharmaceutical care for their patients; local, state and federal law enforcement officials engaged in the administration, investigation or enforcement of the laws governing illicit drug use; regulatory and licensing boards in this state; Division of Medicaid regarding Medicaid and Medicare Program recipients; judicial authorities under grand jury subpoena; an individual who requests the individual's own prescription monitoring information; and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies.

(ii) The Director of the Mississippi Bureau of Narcotics, or his designee, shall have access to the Prescription Monitoring Program (PMP) database for the purpose of investigating the potential illegal acquisition, distribution, dispensing, prescribing or administering of the controlled and noncontrolled substances monitored by the program, subject to all legal restrictions on further dissemination of the information obtained.

(iii) The State Board of Pharmacy may also provide statistical data for research or educational purposes if the board determines the use of the data to be of significant benefit to public health and safety. The board maintains the right to refuse any request for PMP data.

(iv) A pharmacist licensed by the Mississippi Board of Pharmacy must be a registered user of the PMP. Failure of a pharmacist licensed by the Mississippi Board of Pharmacy to register as a user of the PMP is grounds for disciplinary action by the board.

(v) All licensed practitioners as defined under Section 73-21-73(ee) holding an active DEA number shall register as users of the PMP.

(f) The Prescription Monitoring Program through the Board of Pharmacy may:

(i) Establish the cost of administration, maintenance, and operation of the program and charge to like agencies a fee based on a formula to be determined by the board with collaboration and input from participating agencies; and

(ii) Assess charges for information and/or statistical data provided to agencies, institutions and individuals. The amounts of those fees shall be set by the Executive Director of the Board of Pharmacy based on the recommendation of the Director of the PMP.

All such fees collected shall be deposited into the special fund of the State Board of Pharmacy and used to support the operations of the PMP.

(g) A dispenser pharmacist or practitioner licensed to dispense controlled substances and specified noncontrolled substance drugs who knowingly fails to submit drug-monitoring information or knowingly submits incorrect dispensing information shall be subject to actions against the pharmacist's or practitioner's license, registrations or permit and/or an administrative penalty as provided in Sections 73-21-97 and 73-21-103. Any misuse of the PMP is subject to penalties as provided in Sections 73-21-97 and 73-21-103.

(h) The Board of Pharmacy and the Prescription Monitoring Program shall be immune from civil liability arising from inaccuracy of any of the information submitted to the program.

(i) "Practitioner," as used in this section, shall include any person licensed, registered or otherwise permitted to distribute, dispense, prescribe or administer a controlled substance, as defined under Section 41-29-105(y), and any person defined as a "practitioner" under Section 73-21-73(ee).

(j) In addition to any funds appropriated by the Legislature, the State Board of Pharmacy may apply for any available grants and accept any gifts, grants or donations to assist in future development or in maintaining the program.

HISTORY: Laws, 2006, ch. 533, § 29; Laws, 2008, ch. 516, § 1; Laws, 2011, ch. 533, § 1; Laws, 2011, ch. 546, § 35; Laws, 2014, ch. 324, § 1; Laws, 2016, ch. 448, § 33; Laws, 2017, ch. 334, § 1, eff from and after July 1, 2017; Laws, 2019, ch. 366, § 4, eff from and after July 1, 2019; reenacted without change, Laws, 2020, ch. 419, § 32, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment substituted "Section 73-21-73(ee)" for "Section 73-21-73(cc)" in (e)(v) and in (i).

The 2020 amendment reenacted the section without change.

§ 73-21-129. Certain drug manufacturers required to make provision for return of outdated drugs from pharmacies; investigation and discipline of noncompliant manufacturers; exemption; definitions [Repealed effective July 1, 2025].

HISTORY: Laws, 2008, ch. 512, § 1; Laws, 2011, ch. 546, § 28; Laws, 2016, ch. 448, § 34, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 419, § 33, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 419, § 33. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

PHARMACY BENEFIT PROMPT PAY ACT

Sec.

73-21-151. Short title.
73-21-153. Definitions.
73-21-155. Most current reference price to be used in calculation of reimbursement for prescription drugs and other products and supplies; updating of reference price; time period for payment of benefits; "clean claim" defined; compliance; penalties; retroactive denial or reduction of claim after adjudication prohibited.
73-21-156. Placement of drug on maximum allowable cost list; access, update and notification of update to maximum allowable cost list; administrative appeal procedure for challenge to maximum allowable cost list and reimbursements; reimbursement by pharmacy benefit manager to pharmacy or pharmacist in amount less than reimbursement to pharmacy benefit manager affiliate for same pharmacist services prohibited [Effective January 1, 2021].
73-21-157. License required to do business as pharmacy benefit manager; pharmacy benefit managers to file certain financial statements with State Board of Pharmacy; time period for filing statements.
73-21-159. Financial examination of pharmacy benefit manager.
73-21-161. Referral by pharmacy or pharmacy benefit manager or affiliate, or transfer or sharing records relative to certain prescription information, or presentation of claim for payment pursuant to referral from affiliate prohibited; pharmacy licensed or holding nonresident pharmacy permit to annually file disclosure statement identifying affiliates; violation of section [Effective January 1, 2021].

Sec.
73-21-163. Action for temporary or permanent injunction against pharmacy benefit manager or affiliate to prohibit use of certain methods, acts or practices; monetary penalties for noncompliance with Sections 73-21-151 through 73-21-163; enforcement of payment of penalties; development of uniform penalty policy [Effective January 1, 2021].

§ 73-21-151. Short title.

[Effective until January 1, 2021, this section will read:]

Sections 73-21-151 through 73-21-159 shall be known as the "Pharmacy Benefit Prompt Pay Act."

[Effective from and after January 1, 2021, this section will read:]

Sections 73-21-151 through 73-21-163 shall be known as the "Pharmacy Benefit Prompt Pay Act."

HISTORY: Laws, 2006, ch. 533, § 31, eff from and after June 30, 2006; Laws, 2020, ch. 395, § 1, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, substituted "73-21-163" for "73-21-159."

§ 73-21-153. Definitions.

[Effective until January 1, 2021, this section will read:]

For purposes of Sections 73-21-151 through 73-21-159, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Pharmacy.

(b) "Commissioner" means the Mississippi Commissioner of Insurance.

(c) "Day" means a calendar day, unless otherwise defined or limited.

(d) "Electronic claim" means the transmission of data for purposes of payment of covered prescription drugs, other products and supplies, and pharmacist services in an electronic data format specified by a pharmacy benefit manager and approved by the department.

(e) "Electronic adjudication" means the process of electronically receiving, reviewing and accepting or rejecting an electronic claim.

(f) "Enrollee" means an individual who has been enrolled in a pharmacy benefit management plan.

(g) "Health insurance plan" means benefits consisting of prescription drugs, other products and supplies, and pharmacist services provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as prescription drugs, other products and supplies, and pharmacist services under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer, unless preempted as an employee benefit plan under the Employee Retirement Income Security Act of 1974. However, "health insurance coverage" shall not include benefits due under the workers compensation laws of this or any other state.

(h) "Pharmacy benefit manager" shall have the same definition as provided in Section 73-21-179. However, through June 30, 2014, the term "pharmacy benefit manager" shall not include an insurance company that provides an integrated health benefit plan and that does not separately contract for pharmacy benefit management services. From and after July 1, 2014, the term "pharmacy benefit manager" shall not include an insurance company unless the insurance company is providing services as a pharmacy benefit manager as defined in Section 73-21-179, in which case the insurance company shall be subject to Sections 73-21-151 through 73-21-159 only for those pharmacy benefit manager services. In addition, the term "pharmacy benefit manager" shall not include the pharmacy benefit manager of the Mississippi State and School Employees Health Insurance Plan or the Mississippi Division of Medicaid or its contractors when performing pharmacy benefit manager services for the Division of Medicaid.

(i) "Pharmacy benefit management plan" shall have the same definition as provided in Section 73-21-179.

(j) "Pharmacist," "pharmacist services" and "pharmacy" or "pharmacies" shall have the same definitions as provided in Section 73-21-73.

(k) "Uniform claim form" means a form prescribed by rule by the State Board of Pharmacy; however, for purposes of Sections 73-21-151 through 73-21-159, the board shall adopt the same definition or rule where the State Department of Insurance has adopted a rule covering the same type of claim. The board may modify the terminology of the rule and form when necessary to comply with the provisions of Sections 73-21-151 through 73-21-159.

(*l*) "Plan sponsors" means the employers, insurance companies, unions and health maintenance organizations that contract with a pharmacy benefit manager for delivery of prescription services.

[Effective from and after January 1, 2021, this section will read:]

For purposes of Sections 73-21-151 through 73-21-163, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Pharmacy.

(b) "Commissioner" means the Mississippi Commissioner of Insurance.

(c) "Day" means a calendar day, unless otherwise defined or limited.

(d) "Electronic claim" means the transmission of data for purposes of payment of covered prescription drugs, other products and supplies, and pharmacist services in an electronic data format specified by a pharmacy benefit manager and approved by the department.

(e) "Electronic adjudication" means the process of electronically receiving, reviewing and accepting or rejecting an electronic claim.

(f) "Enrollee" means an individual who has been enrolled in a pharmacy benefit management plan.

(g) "Health insurance plan" means benefits consisting of prescription drugs, other products and supplies, and pharmacist services provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as prescription drugs, other products and supplies, and pharmacist services under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer.

(h) "Pharmacy benefit manager" shall have the same definition as provided in Section 73-21-179. However, through June 30, 2014, the term "pharmacy benefit manager" shall not include an insurance company that provides an integrated health benefit plan and that does not separately contract for pharmacy benefit management services. From and after July 1, 2014, the term "pharmacy benefit manager" shall not include an insurance company unless the insurance company is providing services as a pharmacy benefit manager as defined in Section 73-21-179, in which case the insurance company shall be subject to Sections 73-21-151 through 73-21-159 only for those pharmacy benefit manager services. In addition, the term "pharmacy benefit manager" shall not include the pharmacy benefit manager of the Mississippi State and School Employees Health Insurance Plan or the Mississippi Division of Medicaid or its contractors when performing pharmacy benefit manager services for the Division of Medicaid.

(i) "Pharmacy benefit manager affiliate" means a pharmacy or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with a pharmacy benefit manager.

(j) "Pharmacy benefit management plan" shall have the same definition as provided in Section 73-21-179.

(k) "Pharmacist," "pharmacist services" and "pharmacy" or "pharmacies" shall have the same definitions as provided in Section 73-21-73.

(*l*) "Uniform claim form" means a form prescribed by rule by the State Board of Pharmacy; however, for purposes of Sections 73-21-151 through 73-21-159, the board shall adopt the same definition or rule where the State Department of Insurance has adopted a rule covering the same type of claim. The board may modify the terminology of the rule and form when necessary to comply with the provisions of Sections 73-21-151 through 73-21-159.

(m) "Plan sponsors" means the employers, insurance companies, unions and health maintenance organizations that contract with a pharmacy benefit manager for delivery of prescription services.

HISTORY: Laws, 2006, ch. 533, § 32; Laws, 2013, ch. 541, § 3, eff from and after July 1, 2013; Laws, 2020, ch. 395, § 2, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, in the introductory paragraph, substituted "73-21-163" for "73-21-159"; in (g), deleted "unless preempted as an employee benefit plan under the Employee Retirement Income Security Act of 1974. However, 'health insurance coverage' shall not include benefits due under the workers compensation laws of this or any other state" from the end; and added (i) and redesignated (j) through (*l*) as (k) through (m).

§ 73-21-155. Most current reference price to be used in calculation of reimbursement for prescription drugs and other products and supplies; updating of reference price; time period for payment of benefits; "clean claim" defined; compliance; penalties; retroactive denial or reduction of claim after adjudication prohibited.

[Effective until January 1, 2021, this section will read:]

(1) Reimbursement under a contract to a pharmacist or pharmacy for prescription drugs and other products and supplies that is calculated according to a formula that uses a nationally recognized reference in the pricing calculation shall use the most current nationally recognized reference price or amount in the actual or constructive possession of the pharmacy benefit manager, its agent, or any other party responsible for reimbursement for prescription drugs and other products and supplies on the date of electronic adjudication or on the date of service shown on the nonelectronic claim.

(2) Pharmacy benefit managers, their agents and other parties responsible for reimbursement for prescription drugs and other products and supplies shall be required to update the nationally recognized reference prices or amounts used for calculation of reimbursement for prescription drugs and other products and supplies no less than every three (3) business days.

(3)(a) All benefits payable under a pharmacy benefit management plan shall be paid within fifteen (15) days after receipt of due written proof of a clean claim where claims are submitted electronically, and shall be paid within thirty-five (35) days after receipt of due written proof of a clean claim where claims are submitted in paper format. Benefits due under the plan and claims are overdue if not paid within fifteen (15) days or thirty-five (35) days, whichever is applicable, after the pharmacy benefit manager receives a clean claim containing necessary information essential for the pharmacy benefit manager to administer preexisting condition, coordination of benefits and subrogation provisions under the plan sponsor's health insurance plan. A "clean claim" means a claim received by any pharmacy benefit manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefit manager. A claim is clean if it has no defect or impropriety, including any lack of substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this subsection. A clean claim includes resubmitted claims with previously identified deficiencies corrected.

(b) A clean claim does not include any of the following:

(i) A duplicate claim, which means an original claim and its duplicate when the duplicate is filed within thirty (30) days of the original claim;

(ii) Claims which are submitted fraudulently or that are based upon material misrepresentations;

(iii) Claims that require information essential for the pharmacy benefit manager to administer preexisting condition, coordination of benefits or subrogation provisions under the plan sponsor's health insurance plan; or

(iv) Claims submitted by a pharmacist or pharmacy more than thirty (30) days after the date of service; if the pharmacist or pharmacy does not submit the claim on behalf of the insured, then a claim is not clean when submitted more than thirty (30) days after the date of billing by the pharmacist or pharmacy to the insured.

(c) Not later than fifteen (15) days after the date the pharmacy benefit manager actually receives an electronic claim, the pharmacy benefit manager shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the pharmacist or pharmacy (where the claim is owed to the pharmacist or pharmacy) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Not later than thirty-five (35) days after the date the pharmacy benefit manager actually receives a paper claim, the pharmacy benefit manager shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the pharmacist or pharmacy (where the claim is owed to the pharmacist or pharmacy) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Any claim or portion thereof resubmitted with the supporting documentation and information requested by the pharmacy benefit manager shall be paid within twenty (20) days after receipt.

(4) If the board finds that any pharmacy benefit manager, agent or other party responsible for reimbursement for prescription drugs and other products and supplies has not paid ninety-five percent (95%) of clean claims as defined in subsection (3) of this section received from all pharmacies in a calendar quarter, he shall be subject to administrative penalty of not more than Twenty-five Thousand Dollars ($25,000.00) to be assessed by the State Board of Pharmacy.

(a) Examinations to determine compliance with this subsection may be conducted by the board. The board may contract with qualified impartial outside sources to assist in examinations to determine compliance. The expenses of any such examinations shall be paid by the pharmacy benefit manager examined.

(b) Nothing in the provisions of this section shall require a pharmacy benefit manager to pay claims that are not covered under the terms of a contract or policy of accident and sickness insurance or prepaid coverage.

(c) If the claim is not denied for valid and proper reasons by the end of the applicable time period prescribed in this provision, the pharmacy benefit manager must pay the pharmacy (where the claim is owed to the pharmacy) or the patient (where the claim is owed to a patient) interest on accrued benefits at the rate of one and one-half percent (1-½%) per month accruing from the day after payment was due on the amount of the benefits that remain unpaid until the claim is finally settled or adjudicated. Whenever interest due pursuant to this provision is less than One Dollar ($1.00), such amount shall be credited to the account of the person or entity to whom such amount is owed.

(d) Any pharmacy benefit manager and a pharmacy may enter into an express written agreement containing timely claim payment provisions which differ from, but are at least as stringent as, the provisions set forth under subsection (3) of this section, and in such case, the provisions of the written agreement shall govern the timely payment of claims by the pharmacy benefit manager to the pharmacy. If the express written agreement is silent as to any interest penalty where claims are not paid in accordance with the agreement, the interest penalty provision of subsection (4)(c) of this section shall apply.

(e) The State Board of Pharmacy may adopt rules and regulations necessary to ensure compliance with this subsection.

(5)(a) For purposes of this subsection (5), "network pharmacy" means a licensed pharmacy in this state that has a contract with a pharmacy benefit manager to provide covered drugs at a negotiated reimbursement rate. A network pharmacy or pharmacist may decline to provide a brand name drug, multisource generic drug, or service, if the network pharmacy or pharmacist is paid less than that network pharmacy's acquisition cost for the product. If the network pharmacy or pharmacist declines to provide such drug or service, the pharmacy or pharmacist shall provide the customer with adequate information as to where the prescription for the drug or service may be filled.

(b) The State Board of Pharmacy shall adopt rules and regulations necessary to implement and ensure compliance with this subsection, including, but not limited to, rules and regulations that address access to pharmacy services in rural or underserved areas in cases where a network pharmacy or pharmacist declines to provide a drug or service under paragraph (a) of this subsection. The board shall promulgate the rules and regulations required by this paragraph (b) not later than October 1, 2016.

[Effective from and after January 1, 2021, this section will read:]

(1) Reimbursement under a contract to a pharmacist or pharmacy for prescription drugs and other products and supplies that is calculated according to a formula that uses Medi-Span, Gold Standard or a nationally recognized reference that has been approved by the board in the pricing calculation shall use the most current reference price or amount in the actual or constructive possession of the pharmacy benefit manager, its agent, or any other party

responsible for reimbursement for prescription drugs and other products and supplies on the date of electronic adjudication or on the date of service shown on the nonelectronic claim.

(2) Pharmacy benefit managers, their agents and other parties responsible for reimbursement for prescription drugs and other products and supplies shall be required to update the nationally recognized reference prices or amounts used for calculation of reimbursement for prescription drugs and other products and supplies no less than every three (3) business days.

(3)(a) All benefits payable under a pharmacy benefit management plan shall be paid within seven (7) days after receipt of due written proof of a clean claim where claims are submitted electronically, and shall be paid within thirty-five (35) days after receipt of due written proof of a clean claim where claims are submitted in paper format. Benefits due under the plan and claims are overdue if not paid within seven (7) days or thirty-five (35) days, whichever is applicable, after the pharmacy benefit manager receives a clean claim containing necessary information essential for the pharmacy benefit manager to administer preexisting condition, coordination of benefits and subrogation provisions under the plan sponsor's health insurance plan. A "clean claim" means a claim received by any pharmacy benefit manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefit manager. A claim is clean if it has no defect or impropriety, including any lack of substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this subsection. A clean claim includes resubmitted claims with previously identified deficiencies corrected.

(b) A clean claim does not include any of the following:

(i) A duplicate claim, which means an original claim and its duplicate when the duplicate is filed within thirty (30) days of the original claim;

(ii) Claims which are submitted fraudulently or that are based upon material misrepresentations;

(iii) Claims that require information essential for the pharmacy benefit manager to administer preexisting condition, coordination of benefits or subrogation provisions under the plan sponsor's health insurance plan; or

(iv) Claims submitted by a pharmacist or pharmacy more than thirty (30) days after the date of service; if the pharmacist or pharmacy does not submit the claim on behalf of the insured, then a claim is not clean when submitted more than thirty (30) days after the date of billing by the pharmacist or pharmacy to the insured.

(c) Not later than seven (7) days after the date the pharmacy benefit manager actually receives an electronic claim, the pharmacy benefit manager shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the pharmacist or pharmacy (where the claim is owed to the pharmacist or pharmacy) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Not later than thirty-five (35) days after the date the pharmacy benefit manager actually receives a paper claim, the pharmacy benefit manager shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the pharmacist or pharmacy (where the claim is owed to the pharmacist or pharmacy) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Any claim or portion thereof resubmitted with the supporting documentation and information requested by the pharmacy benefit manager shall be paid within twenty (20) days after receipt.

(4) If the board finds that any pharmacy benefit manager, agent or other party responsible for reimbursement for prescription drugs and other products and supplies has not paid ninety-five percent (95%) of clean claims as defined in subsection (3) of this section received from all pharmacies in a calendar quarter, he shall be subject to administrative penalty of not more than Twenty-five Thousand Dollars ($25,000.00) to be assessed by the State Board of Pharmacy.

(a) Examinations to determine compliance with this subsection may be conducted by the board. The board may contract with qualified impartial outside sources to assist in examinations to determine compliance. The expenses of any such examinations shall be paid by the pharmacy benefit manager examined.

(b) Nothing in the provisions of this section shall require a pharmacy benefit manager to pay claims that are not covered under the terms of a contract or policy of accident and sickness insurance or prepaid coverage.

(c) If the claim is not denied for valid and proper reasons by the end of the applicable time period prescribed in this provision, the pharmacy benefit manager must pay the pharmacy (where the claim is owed to the pharmacy) or the patient (where the claim is owed to a patient) interest on accrued benefits at the rate of one and one-half percent (1-1/2%) per month accruing from the day after payment was due on the amount of the benefits that remain unpaid until the claim is finally settled or adjudicated. Whenever interest due pursuant to this provision is less than One Dollar ($1.00), such amount shall be credited to the account of the person or entity to whom such amount is owed.

(d) Any pharmacy benefit manager and a pharmacy may enter into an express written agreement containing timely claim payment provisions which differ from, but are at least as stringent as, the provisions set forth under subsection (3) of this section, and in such case, the provisions of the written agreement shall govern the timely payment of claims by the pharmacy benefit manager to the pharmacy. If the express written agreement is silent as to any interest penalty where claims are not paid in accordance with the agreement, the interest penalty provision of subsection (4)(c) of this section shall apply.

(e) The State Board of Pharmacy may adopt rules and regulations necessary to ensure compliance with this subsection.

(5)(a) For purposes of this subsection (5), "network pharmacy" means a licensed pharmacy in this state that has a contract with a pharmacy benefit manager to provide covered drugs at a negotiated reimbursement rate. A network pharmacy or pharmacist may decline to provide a brand name drug, multisource generic drug, or service, if the network pharmacy or pharmacist is paid less than that network pharmacy's acquisition cost for the product. If the network pharmacy or pharmacist declines to provide such drug or service, the pharmacy or pharmacist shall provide the customer with adequate information as to where the prescription for the drug or service may be filled.

(b) The State Board of Pharmacy shall adopt rules and regulations necessary to implement and ensure compliance with this subsection, including, but not limited to, rules and regulations that address access to pharmacy services in rural or underserved areas in cases where a network pharmacy or pharmacist declines to provide a drug or service under paragraph (a) of this subsection. The board shall promulgate the rules and regulations required by this paragraph (b) not later than October 1, 2016.

(6) A pharmacy benefit manager shall not directly or indirectly retroactively deny or reduce a claim or aggregate of claims after the claim or aggregate of claims has been adjudicated.

HISTORY: Laws, 2006, ch. 533, § 33; Laws, 2016, ch. 453, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 395, § 3, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, in (1), inserted "Medi-Span, Gold Standard or" and "that has been approved by the board," and deleted "nationally recognized" following "shall use the most current"; in (3), substituted "seven (7) days" for "fifteen (15) days" twice in (a) and once in (c); and added (6).

§ 73-21-156. Placement of drug on maximum allowable cost list; access, update and notification of update to maximum allowable cost list; administrative appeal procedure for challenge to maximum allowable cost list and reimbursements; reimbursement by pharmacy benefit manager to pharmacy or pharmacist in amount less than reimbursement to pharmacy benefit manager affiliate for same pharmacist services prohibited [Effective January 1, 2021].

(1) As used in this section, the following terms shall be defined as provided in this subsection:

(a) "Maximum allowable cost list" means a listing of drugs or other methodology used by a pharmacy benefit manager, directly or indirectly, setting the maximum allowable payment to a pharmacy or pharmacist for a generic drug, brand-name drug, biologic product or other prescription drug. The term "maximum allowable cost list" includes without limitation:

(i) Average acquisition cost, including national average drug acquisition cost;

(ii) Average manufacturer price;

(iii) Average wholesale price;

(iv) Brand effective rate or generic effective rate;

(v) Discount indexing;

(vi) Federal upper limits;

(vii) Wholesale acquisition cost; and

(viii) Any other term that a pharmacy benefit manager or a health care insurer may use to establish reimbursement rates to a pharmacist or pharmacy for pharmacist services.

(b) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler charges for a pharmaceutical product as listed on the pharmacy's billing invoice.

(2) Before a pharmacy benefit manager places or continues a particular drug on a maximum allowable cost list, the drug:

(a) If the drug is a generic equivalent drug product as defined in 73-21-73, shall be listed as therapeutically equivalent and pharmaceutically equivalent "A" or "B" rated in the United States Food and Drug Administration's most recent version of the "Orange Book" or "Green Book" or have an NR or NA rating by Medi-Span, Gold Standard, or a similar rating by a nationally recognized reference approved by the board;

(b) Shall be available for purchase by each pharmacy in the state from national or regional wholesalers operating in Mississippi; and

(c) Shall not be obsolete.

(3) A pharmacy benefit manager shall:

(a) Provide access to its maximum allowable cost list to each pharmacy subject to the maximum allowable cost list;

(b) Update its maximum allowable cost list on a timely basis, but in no event longer than three (3) calendar days; and

(c) Provide a process for each pharmacy subject to the maximum allowable cost list to receive prompt notification of an update to the maximum allowable cost list.

(4) A pharmacy benefit manager shall:

(a) Provide a reasonable administrative appeal procedure to allow pharmacies to challenge a maximum allowable cost list and reimbursements made under a maximum allowable cost list for a specific drug or drugs as:

(i) Not meeting the requirements of this section; or

(ii) Being below the pharmacy acquisition cost.

(b) The reasonable administrative appeal procedure shall include the following:

(i) A dedicated telephone number, email address and website for the purpose of submitting administrative appeals;

(ii) The ability to submit an administrative appeal directly to the pharmacy benefit manager regarding the pharmacy benefit management plan or through a pharmacy service administrative organization; and

(iii) A period of less than thirty (30) business days to file an administrative appeal.

(c) The pharmacy benefit manager shall respond to the challenge under paragraph (a) of this subsection (4) within thirty (30) business days after receipt of the challenge.

(d) If a challenge is made under paragraph (a) of this subsection (4), the pharmacy benefit manager shall within thirty (30) business days after receipt of the challenge either:

(i) If the appeal is upheld:

1. Make the change in the maximum allowable cost list payment to at least the pharmacy acquisition cost;

2. Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in question;

3. Provide the National Drug Code that the increase or change is based on to the pharmacy or pharmacist; and

4. Make the change under item 1 of this subparagraph (i) effective for each similarly situated pharmacy as defined by the payor subject to the maximum allowable cost list; or

(ii) If the appeal is denied, provide the challenging pharmacy or pharmacist the National Drug Code and the name of the national or regional pharmaceutical wholesalers operating in Mississippi that have the drug currently in stock at a price below the maximum allowable cost as listed on the maximum allowable cost list; or

(iii) If the National Drug Code provided by the pharmacy benefit manager is not available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy benefit manager shall adjust the maximum allowable cost as listed on the maximum allowable cost list above the challenging pharmacy's pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the inability to procure the drug at a cost that is equal to or less than the previously challenged maximum allowable cost.

(5)(a) A pharmacy benefit manager shall not reimburse a pharmacy or pharmacist in the state an amount less than the amount that the pharmacy benefit manager reimburses a pharmacy benefit manager affiliate for providing the same pharmacist services.

(b) The amount shall be calculated on a per unit basis based on the same brand and generic product identifier or brand and generic code number.

HISTORY: Laws, 2020, ch. 395, § 4, eff from and after January 1, 2021.

§ 73-21-157. License required to do business as pharmacy benefit manager; pharmacy benefit managers to file certain financial statements with State Board of Pharmacy; time period for filing statements.

[Effective until January 1, 2021, this section will read:]

(1) Before beginning to do business as a pharmacy benefit manager, a pharmacy benefit manager shall obtain a license to do business from the board. To obtain a license, the applicant shall submit an application to the board on a form to be prescribed by the board.

(2) Each pharmacy benefit manager providing pharmacy management benefit plans in this state shall file a statement with the board annually by March 1 or within sixty (60) days of the end of its fiscal year if not a calendar year. The statement shall be verified by at least two (2) principal officers and shall cover the preceding calendar year or the immediately preceding fiscal year of the pharmacy benefit manager.

(3) The statement shall be on forms prescribed by the board and shall include:

(a) A financial statement of the organization, including its balance sheet and income statement for the preceding year; and

(b) Any other information relating to the operations of the pharmacy benefit manager required by the board under this section.

However, no pharmacy benefit manager shall be required to disclose proprietary information of any kind to the board.

(4) If the pharmacy benefit manager is audited annually by an independent certified public accountant, a copy of the certified audit report shall be filed annually with the board by June 30 or within thirty (30) days of the report being final.

(5) The board may extend the time prescribed for any pharmacy benefit manager for filing annual statements or other reports or exhibits of any kind for good cause shown. However, the board shall not extend the time for filing annual statements beyond sixty (60) days after the time prescribed by subsection (1) of this section. The board may waive the requirements for filing financial information for the pharmacy benefit manager if an affiliate of the pharmacy benefit manager is already required to file such information under current law with the Commissioner of Insurance and allow the pharmacy benefit manager to file a copy of documents containing such information with the board in lieu of the statement required by this section.

(6) The expense of administering this section shall be assessed annually by the board against all pharmacy benefit managers operating in this state.

[Effective from and after January 1, 2021, this section will read:]

(1) Before beginning to do business as a pharmacy benefit manager, a pharmacy benefit manager shall obtain a license to do business from the board. To obtain a license, the applicant shall submit an application to the board on a form to be prescribed by the board.

(2) Each pharmacy benefit manager providing pharmacy management benefit plans in this state shall file a statement with the board annually by March 1 or within sixty (60) days of the end of its fiscal year if not a calendar year. The statement shall be verified by at least two (2) principal officers and shall cover the preceding calendar year or the immediately preceding fiscal year of the pharmacy benefit manager.

(3) The statement shall be on forms prescribed by the board and shall include:

(a) A financial statement of the organization, including its balance sheet and income statement for the preceding year; and

(b) Any other information relating to the operations of the pharmacy benefit manager required by the board under this section.

(4)(a) Any information required to be submitted to the board pursuant to licensure application that is considered proprietary by a pharmacy benefit manager shall be marked as confidential when submitted to the board. All such information shall not be subject to the provisions of the federal Freedom of Information Act or the Mississippi Public Records Act and shall not be released by the board unless subject to an order from a court of competent jurisdiction. The board shall destroy or delete or cause to be destroyed or deleted all such information thirty (30) days after the board determines that the information is no longer necessary or useful.

(b) Any person who knowingly releases, causes to be released or assists in the release of any such information shall be subject to a monetary penalty imposed by the board in an amount not exceeding Fifty Thousand Dollars ($50,000.00) per violation. When the board is considering the imposition of any penalty under this paragraph (b), it shall follow the same policies and procedures provided for the imposition of other sanctions in the Pharmacy Practice Act. Any penalty collected under this paragraph (b) shall be deposited into the special fund of the board and used to support the operations of the board relating to the regulation of pharmacy benefit managers.

(c) All employees of the board who have access to the information described in paragraph (a) of this subsection shall be fingerprinted, and the board shall submit a set of fingerprints for each employee to the Department of Public Safety for the purpose of conducting a criminal history records check. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check.

(5) If the pharmacy benefit manager is audited annually by an independent certified public accountant, a copy of the certified audit report shall be filed annually with the board by June 30 or within thirty (30) days of the report being final.

(6) The board may extend the time prescribed for any pharmacy benefit manager for filing annual statements or other reports or exhibits of any kind for good cause shown. However, the board shall not extend the time for filing annual statements beyond sixty (60) days after the time prescribed by

subsection (1) of this section. The board may waive the requirements for filing financial information for the pharmacy benefit manager if an affiliate of the pharmacy benefit manager is already required to file such information under current law with the Commissioner of Insurance and allow the pharmacy benefit manager to file a copy of documents containing such information with the board in lieu of the statement required by this section.

(7) The expense of administering this section shall be assessed annually by the board against all pharmacy benefit managers operating in this state.

(8) A pharmacy benefit manager or third-party payor may not require pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and state requirements for licensure as a pharmacy in this state.

HISTORY: Laws, 2006, ch. 533, § 34; Laws, 2011, ch. 546, § 31; Laws, 2013, ch. 541, § 4; Laws, 2016, ch. 453, § 2, eff from and after July 1, 2016; Laws, 2020, ch. 395, § 5, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, in (3), deleted the former last paragraph, which read: "However, no pharmacy benefit manager shall be required to disclose proprietary information of any kind to the board"; added (4); redesignated former (4) through (6) as (5) through (7); and added (8).

Cross References — Mississippi Public Records Act, see § 25-61-1 et seq.

Federal Aspects — Freedom of Information Act, see 5 USCS § 552 et seq.

§ 73-21-159. Financial examination of pharmacy benefit manager.

[Effective until January 1, 2021, this section will read:]

(1) In lieu of or in addition to making its own financial examination of a pharmacy benefit manager, the board may accept the report of a financial examination of other persons responsible for the pharmacy benefit manager under the laws of another state certified by the applicable official of such other state.

(2) The board shall coordinate financial examinations of a pharmacy benefit manager that provides pharmacy management benefit plans in this state to ensure an appropriate level of regulatory oversight and to avoid any undue duplication of effort or regulation. The pharmacy benefit manager being examined shall pay the cost of the examination. The cost of the examination shall be deposited in a special fund that shall provide all expenses for the licensing, supervision and examination of all pharmacy benefit managers subject to regulation under Sections 73-21-71 through 73-21-129 and Sections 73-21-151 through 73-21-159.

(3) The board may provide a copy of the financial examination to the person or entity who provides or operates the health insurance plan or to a pharmacist or pharmacy.

(4) The board is authorized to hire independent financial consultants to conduct financial examinations of a pharmacy benefit manager and to expend funds collected under this section to pay the costs of such examinations.

[Effective from and after January 1, 2021, this section will read:]

(1) In lieu of or in addition to making its own financial examination of a pharmacy benefit manager, the board may accept the report of a financial examination of other persons responsible for the pharmacy benefit manager under the laws of another state certified by the applicable official of such other state.

(2) The board shall coordinate financial examinations of a pharmacy benefit manager that provides pharmacy management benefit plans in this state to ensure an appropriate level of regulatory oversight and to avoid any undue duplication of effort or regulation. The pharmacy benefit manager being examined shall pay the cost of the examination. The cost of the examination shall be deposited in a special fund that shall provide all expenses for the licensing, supervision and examination of all pharmacy benefit managers subject to regulation under Sections 73-21-71 through 73-21-129 and Sections 73-21-151 through 73-21-163.

(3) The board may provide a copy of the financial examination to the person or entity who provides or operates the health insurance plan or to a pharmacist or pharmacy.

(4) The board is authorized to hire independent financial consultants to conduct financial examinations of a pharmacy benefit manager and to expend funds collected under this section to pay the costs of such examinations.

HISTORY: Laws, 2006, ch. 533, § 35; Laws, 2011, ch. 546, § 32; Laws, 2013, ch. 541, § 5; Laws, 2016, ch. 453, § 3, eff from and after July 1, 2016; Laws, 2020, ch. 395, § 6, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, in (2), substituted "73-21-163" for "73-21-159."

§ 73-21-161. Referral by pharmacy or pharmacy benefit manager or affiliate, or transfer or sharing records relative to certain prescription information, or presentation of claim for payment pursuant to referral from affiliate prohibited; pharmacy licensed or holding nonresident pharmacy permit to annually file disclosure statement identifying affiliates; violation of section [Effective January 1, 2021].

(1) As used in this section, the term "referral" means:

(a) Ordering of a patient to a pharmacy by a pharmacy benefit manager affiliate either orally or in writing, including online messaging;

(b) Offering or implementing plan designs that require patients to use affiliated pharmacies; or

(c) Patient or prospective patient specific advertising, marketing, or promotion of a pharmacy by an affiliate.

The term "referral" does not include a pharmacy's inclusion by a pharmacy benefit manager affiliate in communications to patients, including patient and prospective patient specific communications, regarding network pharmacies and prices, provided that the affiliate includes information regarding eligible nonaffiliate pharmacies in those communications and the information provided is accurate.

(2) A pharmacy, pharmacy benefit manager, or pharmacy benefit manager affiliate licensed or operating in Mississippi shall be prohibited from:

(a) Making referrals;

(b) Transferring or sharing records relative to prescription information containing patient identifiable and prescriber identifiable data to or from a pharmacy benefit manager affiliate for any commercial purpose; however, nothing in this section shall be construed to prohibit the exchange of prescription information between a pharmacy and its affiliate for the limited purposes of pharmacy reimbursement; formulary compliance; pharmacy care; public health activities otherwise authorized by law; or utilization review by a health care provider; or

(c) Presenting a claim for payment to any individual, third-party payor, affiliate, or other entity for a service furnished pursuant to a referral from an affiliate.

(3) This section shall not be construed to prohibit a pharmacy from entering into an agreement with a pharmacy benefit manager affiliate to provide pharmacy care to patients, provided that the pharmacy does not receive referrals in violation of subsection (2) of this section and the pharmacy provides the disclosures required in subsection (1) of this section.

(4) If a pharmacy licensed or holding a nonresident pharmacy permit in this state has an affiliate, it shall annually file with the board a disclosure statement identifying all such affiliates.

(5) In addition to any other remedy provided by law, a violation of this section by a pharmacy shall be grounds for disciplinary action by the board under its authority granted in this chapter.

(6) A pharmacist who fills a prescription that violates subsection (2) of this section shall not be liable under this section.

HISTORY: Laws, 2020, ch. 395, § 7, eff from and after January 1, 2021.

§ 73-21-163. Action for temporary or permanent injunction against pharmacy benefit manager or affiliate to prohibit use of certain methods, acts or practices; monetary penalties for noncompliance with Sections 73-21-151 through 73-21-163; enforcement of payment of penalties; development of uniform penalty policy [Effective January 1, 2021].

Whenever the board has reason to believe that a pharmacy benefit manager or pharmacy benefit manager affiliate is using, has used, or is about to use any method, act or practice prohibited in Sections 73-21-151 through 73-21-163 and that proceedings would be in the public interest, it may bring an action in the name of the board against the pharmacy benefit manager or pharmacy benefit manager affiliate to restrain by temporary or permanent injunction the use of such method, act or practice. The action shall be brought in the Chancery Court of the First Judicial District of Hinds County, Mississippi. The court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of Sections 73-21-151 through 73-21-163 and such injunctions shall be issued without bond.

(2) The board may impose a monetary penalty on a pharmacy benefit manager or a pharmacy benefit manager affiliate for noncompliance with the provisions of the Sections 73-21-151 through 73-21-163, in amounts of not less than One Thousand Dollars ($1,000.00) per violation and not more than Twenty-five Thousand Dollars ($25,000.00) per violation. Each day a violation continues for the same brand or generic product identifier or brand or generic code number is a separate violation. The board shall prepare a record entered upon its minutes that states the basic facts upon which the monetary penalty was imposed. Any penalty collected under this subsection (2) shall be deposited into the special fund of the board.

(3) The board may assess a monetary penalty for those reasonable costs that are expended by the board in the investigation and conduct of a proceeding if the board imposes a monetary penalty under subsection (2) of this section. A monetary penalty assessed and levied under this section shall be paid to the board by the licensee, registrant or permit holder upon the expiration of the period allowed for appeal of those penalties under Section 73-21-101, or may be paid sooner if the licensee, registrant or permit holder elects. Any penalty collected by the board under this subsection (3) shall be deposited into the special fund of the board.

(4) When payment of a monetary penalty assessed and levied by the board against a licensee, registrant or permit holder in accordance with this section is not paid by the licensee, registrant or permit holder when due under this section, the board shall have the power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the licensee, registrant or permit holder, or if the licensee, registrant or permit holder is a nonresident of the State of Mississippi, in the Chancery Court of the First Judicial District of Hinds County, Mississippi. When those proceedings are instituted, the board shall certify the record of its proceedings, together with all documents and evidence, to the chancery court and the matter shall be heard in due course by the court, which shall review the record and make its determination thereon in accordance with the provisions of Section 73-21-101. The hearing on the matter may, in the discretion of the chancellor, be tried in vacation.

(5) The board shall develop and implement a uniform penalty policy that sets the minimum and maximum penalty for any given violation of Sections 73-21-151 through 73-21-163. The board shall adhere to its uniform penalty policy except in those cases where the board specifically finds, by majority vote, that a penalty in excess of, or less than, the uniform penalty

is appropriate. That vote shall be reflected in the minutes of the board and shall not be imposed unless it appears as having been adopted by the board.

HISTORY: Laws, 2020, ch. 395, § 8, eff from and after January 1, 2021.

PRESCRIPTION DRUGS CONSUMER AFFORDABLE ALTERNATIVE PAYMENT OPTIONS ACT

Sec.	
73-21-201.	Short title.
73-21-203.	Definitions.
73-21-205.	Pharmacists authorized to provide additional information to patients to allow them to consider affordable alternative payment options when acquiring prescription medication; provisions of contracts or agreements contrary to Sections 73-21-201 through 73-21-205 are void; compliance with this section does not constitute violation of contract or agreement to which pharmacist is party; protection for pharmacists acting or failing to act under this section.

§ 73-21-201. Short title.

Sections 73-21-201 through 73-21-205 shall be known as the "Prescription Drugs Consumer Affordable Alternative Payment Options Act."

HISTORY: Laws, 2018, ch. 331, § 1, eff from and after July 1, 2018.

§ 73-21-203. Definitions.

For the purposes of Sections 73-21-201 through 73-21-205:

(a) "Board" shall have the same definition as provided in Section 73-21-73.

(b) "Pharmacist," "pharmacist services" and "pharmacy" or "pharmacies" shall have the same definitions as provided in Section 73-21-73.

(c) "Pharmacy benefit manager" shall have the same definition as provided in Section 73-21-179.

HISTORY: Laws, 2018, ch. 331, § 2, eff from and after July 1, 2018.

§ 73-21-205. Pharmacists authorized to provide additional information to patients to allow them to consider affordable alternative payment options when acquiring prescription medication; provisions of contracts or agreements contrary to Sections 73-21-201 through 73-21-205 are void; compliance with this section does not constitute violation of contract or agreement to which pharmacist is party; protection for pharmacists acting or failing to act under this section.

(1)(a) Pharmacists may provide additional information to a patient to allow them an opportunity to consider affordable alternative payment options when acquiring their prescription medication.

(b) Any provision of any contract or agreement contrary to the provisions of Sections 73-21-201 through 73-21-205 shall be considered in violation of public policy and shall be void.

(2) Compliance with this section shall not constitute a violation of any contract or provision of any agreement to which the pharmacist or pharmacy is a party.

(3) Neither the board, any pharmacy benefit manager nor any third party shall penalize a pharmacist for acting or failing to act under this section, nor shall a pharmacist or his agents or employees be liable for any act or failure to act under this section.

HISTORY: Laws, 2018, ch. 331, § 3, eff from and after July 1, 2018.

CHAPTER 22.

ORTHOTICS AND PROSTHETICS

§ 73-22-1. Definitions.

JUDICIAL DECISIONS

ANALYSIS

1. "Person."
2. Joint venture.

1. "Person."

Miss. Code Ann. § 73-22-3 does not prohibit the association of certified orthotists or prosthetists with non-licensed persons but rather simply requires that whenever a person utilizes an orthotist or prosthetist in connection with the person's business, all patient care must be done under the direct supervision of the certified orthotist or prosthetist. As Miss. Code Ann. § 73-22-1 broadly defines "person" as an individual, corporation, partnership, association, or other organization, and the owners of a joint venture between a medical supply business and a health care provider were licensed to provide orthotic and prosthetic services and all patient care was done under their direct supervision, the joint venture between the medical supply business and the health care provider was not void as a matter of law. Patton Med. of Gulf Coast, Inc. v. Relle, 269 So. 3d 266, 2018 Miss. App. LEXIS 156 (Miss. Ct. App. 2018).

2. Joint venture.

Record contained ample evidence supporting the claims by a medical supply business of a joint venture formed between the medical supply business and a corporate health care provider. Furthermore, a joint venture between the medical supply business and the health care provider was not void as a matter of law as the owners of the health provider were licensed to provide orthotic and prosthetic services and all patient care was done under their direct supervision. Patton Med. of Gulf Coast, Inc. v. Relle, 269 So. 3d 266, 2018 Miss. App. LEXIS 156 (Miss. Ct. App. 2018).

§ 73-22-3. Certification to practice orthotics or prosthetics; soliciting patronage; penalties and fines for violations.

JUDICIAL DECISIONS

1. In general.

Record contained ample evidence supporting the claims by a medical supply business of a joint venture formed between the medical supply business and a corporate health care provider. Furthermore, a joint venture between the medical supply business and the health care provider was not void as a matter of law as the owners of the health provider were licensed to provide orthotic and prosthetic services and all patient care was done under their direct supervision. Patton Med. of Gulf Coast, Inc. v. Relle, 269 So. 3d 266, 2018 Miss. App. LEXIS 156 (Miss. Ct. App. 2018).

CHAPTER 24.

MISSISSIPPI OCCUPATIONAL THERAPY PRACTICE ACT

§ 73-24-29. Fees.

HISTORY: Laws, 1988, ch. 451, § 15; Laws, 2016, ch. 510, § 50, eff from and after July 1, 2016; Laws, 2020, ch. 473, § 50, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 50. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 25.

PHYSICIANS

General Provisions. 73-25-1
Out-of-State Athletic Team Physicians. 73-25-121

GENERAL PROVISIONS

Sec.
73-25-19. Nonresidents.
73-25-29. Nonissuance, suspension, revocation, restriction, denial of reinstatement, or denial of renewal of license; grounds.

§ 73-25-1. Duty to obtain license.

OPINIONS OF THE ATTORNEY GENERAL

The board of medical licensure may adopt regulations which set professional standards for physicians performing utilization review activities and provide for disciplinary action for physicians found to be in violation thereof. Morgan, Aug. 18, 2006, A.G. Op. 06-0324.

§ 73-25-19. Nonresidents.

Nonresident physicians not holding a license from the state shall not be permitted to practice medicine under any circumstances after remaining in the state for five (5) days, except when called in consultation by a licensed physician residing in this state or except as authorized under Sections 73-25-121 through 73-25-127. This section shall not apply to any nonresident physician who holds a temporary license to practice medicine at a youth camp issued under the provisions of Section 75-74-8 and Section 73-25-17.

HISTORY: Codes, 1892, § 3254; 1906, § 3692; Hemingway's 1917, § 6377; 1930, § 5859; 1942, § 8889; Laws, 1973, ch. 307, § 7; Laws, 1981, ch. 428, § 4, eff from and after July 1, 1981; Laws, 2019, ch. 377, § 5, eff from and after passage (approved March 21, 2019).

Amendment Notes — The 2019 amendment, effective March 21, 2019, in the first sentence, inserted "a" preceding "license from the state" and added "or except as authorized under Sections 73-25-121 through 73-25-127."

§ 73-25-29. Nonissuance, suspension, revocation, restriction, denial of reinstatement, or denial of renewal of license; grounds.

The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

(1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.

(6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court

being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(7) Obtaining or attempting to obtain a license by fraud or deception.

(8) Unprofessional conduct, which includes, but is not limited to:

(a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.

(c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

(d) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

(e) Obtaining a fee as personal compensation or gain from a person on fraudulent representation of a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health

and Human Services, Officer of Inspector General or any successor federal agency or office, which implements the exclusion.

(12) Failure to furnish the board, its investigators or representatives information legally requested by the board.

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

(16) Performing an abortion on a pregnant woman after determining that the unborn human individual that the pregnant woman is carrying has a detectable fetal heartbeat as provided in Section 41-41-34.1.

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, § 8893.1; Laws, 1964, ch. 430, § 2; Laws, 1973, ch. 307, § 10; Laws, 1978, ch. 351, § 1; Laws, 1987, ch. 497; Laws, 1989, ch. 314, § 1; Laws, 1996, ch. 507, § 57; Laws, 1997, ch. 564, § 1; Laws, 2012, ch. 409, § 9; Laws, 2014, ch. 506, § 10; Laws, 2016, ch. 419, § 12, eff from and after July 1, 2016; Laws, 2019, ch. 349, § 2, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added (16).

§ 73-25-37. Liability of physician, dentist, nurse, emergency medical technician, etc., for rendering emergency care; immunity from civil liability for good faith use of automated external defibrillator by person untrained in its use; immunity from civil liability for good faith use of auto-injectable epinephrine by trained school personnel.

JUDICIAL DECISIONS

1. In general.

Business invitee was offered aid when he became medically distressed with heat stroke, and he was given the opportunity to have emergency medical services called, but he refused assistance; the trial court found that the good-samaritan statute was dispositive of the widow's wrongful-death case, and while the court did not agree, the widow failed to establish that the business's negligence was the proximate cause of the decedent's death under either theory of liability. Hawkins v. Heck Yea Quarter Horses, LLC, — So. 3d —, 2017 Miss. App. LEXIS 410 (Miss. Ct. App. July 25, 2017), aff'd, 249 So. 3d 400, 2018 Miss. LEXIS 324 (Miss. 2018).

OUT-OF-STATE ATHLETIC TEAM PHYSICIANS

Sec.
73-25-121. Legislative purpose and intent.
73-25-123. Definitions.
73-25-125. Athletic team physicians licensed in another state exempt from Mississippi licensure requirements under certain conditions; limitations on extent of medical practice allowed under this section.
73-25-127. Illegal practice of medicine outside circumstances authorized by Sections 73-25-121 through 73-25-127.

§ 73-25-121. Legislative purpose and intent.

The purpose of Sections 73-25-121 through 73-25-127 is to set forth certain exemptions and stipulations as to the practice of medicine in Mississippi by physicians travelling from out of state with sports teams for sporting events conducted in the state. Further, it is the intent of Sections 73-25-121 through 73-25-127 to set forth the requirements of those physicians to practice medicine in Mississippi temporarily without obtaining Mississippi licensure.

HISTORY: Laws, 2019, ch. 377, § 1, eff from and after passage (approved March 21, 2019).

§ 73-25-123. Definitions.

As used in Sections 73-25-121 through 73-25-127, the following terms shall have the meanings as defined in this section:

(a) "Athletic team" or "team" means a group of people representing a specific organization or entity engaged in sporting activities, such as baseball or football, which require medical personnel to treat or evaluate injuries sustained in the activity.

(b) "Staff members" means those individuals directly affiliated with the sports organization or entity whose purpose is to support the players or members of the team during a sporting event. This term includes, but is not limited to, trainers, coaches, equipment personnel, communications staff, band members, cheerleaders and the team mascot. This term does not include parents, boosters or other individuals who are simply present or attending the sporting event.

(c) "Team physician" means a health care professional who holds an unrestricted medical license in the athletic team's state of origin, who travels with the team to away games or events for the purpose of providing medical treatment and evaluation for players and staff members of the team.

HISTORY: Laws, 2019, ch. 377, § 2, eff from and after passage (approved March 21, 2019).

§ 73-25-125. Athletic team physicians licensed in another state exempt from Mississippi licensure requirements under certain conditions; limitations on extent of medical practice allowed under this section.

(1) A physician licensed in another state, territory or jurisdiction of the United States is exempt from the licensure requirements in Mississippi under the following conditions related to athletic team-based practice:

(a) The physician is employed or formally designated as the team physician by an athletic team visiting Mississippi for a specific sporting event;

(b) The physician limits the practice of medicine in Mississippi to medical treatment of the players, coaches and staff members of the sports organization or entity that employs or has designated the physician; and

(c) The physician is licensed in the state in which the sports organization or entity is based or housed.

(2) In addition to the authority granted under subsection (1) of this section, physicians authorized to practice under this section may treat players or staff members from the home team in Mississippi if the physician has specialized training or experience beyond that of the home team physician.

(3) The extent of the medical practice allowed under this section is limited to the following aspects of the game or sporting event:

(a) Pre-game warm-up and any postgame activities;

(b) During the actual game or sporting event;

(c) Travel to and from the sporting event within Mississippi; and

(d) In-state lodging of the team and staff members.

(4) It is the responsibility of the team or sports organization or entity employing the team physician to verify that the physician is licensed and in good standing in the appropriate jurisdiction as required under this section.

HISTORY: Laws, 2019, ch. 377, § 3, eff from and after passage (approved March 21, 2019).

§ 73-25-127. Illegal practice of medicine outside circumstances authorized by Sections 73-25-121 through 73-25-127.

The practice of medicine outside of the circumstances authorized in Sections 73-25-121 through 73-25-127 constitutes the illegal practice of medicine, in violation of Section 97-23-43, and violators shall be subject to all fines and penalties described in that section.

HISTORY: Laws, 2019, ch. 377, § 4, eff from and after passage (approved March 21, 2019).

CHAPTER 26.

PHYSICIAN ASSISTANTS

Sec.

73-26-3. Licensing and regulation; minimum requirements; criminal history records check and fingerprinting required.
73-26-5. Rules and regulations; appointment of task force.

§ 73-26-3. Licensing and regulation; minimum requirements; criminal history records check and fingerprinting required.

(1) The State Board of Medical Licensure shall license and regulate the practice of physician assistants in accordance with the provisions of this chapter.

(2) All physician assistants who are employed as physician assistants by a Department of Veterans Affairs health care facility, a branch of the United States military or the Federal Bureau of Prisons, and who are practicing as physician assistants in a federal facility in Mississippi on July 1, 2000, and those physician assistants who trained in a Mississippi physician assistant program and have been continuously practicing as a physician assistant in Mississippi since 1976, shall be eligible for licensure if they submit an application for licensure to the board by December 31, 2000. Physician assistants licensed under this subsection will be eligible for license renewal so long as they meet standard renewal requirements.

(3) Before December 31, 2004, applicants for physician assistant licensure, except those licensed under subsection (2) of this section, must be graduates of physician assistant educational programs accredited by the Commission on Accreditation of Allied Health Educational Programs or its predecessor or successor agency, have passed the certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA), have current NCCPA certification, and possess a minimum of a baccalaureate degree. Physician assistants meeting these licensure requirements will be eligible for license renewal so long as they meet standard renewal requirements.

(4) On or after December 31, 2004, applicants for physician assistant licensure must meet all of the requirements in subsection (3) of this section and, in addition, must have obtained a minimum of a master's degree in a health-related or science field.

(5) Applicants for licensure who meet all licensure requirements except for the master's degree may be granted a temporary license by the board so long as they can show proof of enrollment in a master's program that will, when completed, meet the master's degree requirement. The temporary license will be valid for no longer than one (1) year, and may not be renewed.

(6) For new graduate physician assistants and all physician assistants receiving initial licenses in the state, except those licensed under subsection (2)

of this section, supervision shall require the on-site presence of a supervising physician for one hundred twenty (120) days.

(7) To qualify for a Mississippi physician assistant license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

HISTORY: Laws, 2000, ch. 470, § 2; Laws, 2006, ch. 323, § 1; Laws, 2007, ch. 506, § 3; Laws, 2010, ch. 409, § 1; Laws, 2010, ch. 498, § 4; Laws, 2013, ch. 433, § 1; Laws, 2016, ch. 393, § 1, eff from and after July 1, 2016; Laws, 2019, ch. 376, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment deleted the former last sentence of (5), which read: "This subsection shall stand repealed on July 1, 2019."

§ 73-26-5. Rules and regulations; appointment of task force.

(1) The board shall promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of physician assistants. Those rules shall include, but are not limited to: qualifications for licensure for physician

assistants; scope of practice of physician assistants; supervision of physician assistants; identification of physician assistants; grounds for disciplinary actions and discipline of physician assistants, which through June 30, 2025, shall specifically include discipline for violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners; and setting and charging reasonable fees for licensure and license renewals for physician assistants. However, nothing in this chapter or in rules adopted by the board shall authorize physician assistants to administer or monitor general inhaled anesthesia, epidural anesthesia, spinal anesthesia or monitored anesthesia as utilized in surgical procedures. In addition, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of physician assistants that conflicts with the prohibitions in Section 73-49-3. The board shall promulgate rules for licensure and license renewals in accordance with Section 33-1-39.

(2) If the board appoints a task force or committee to address physician assistant regulation, at least one (1) member of the task force shall be a nurse practitioner who is a member of the Mississippi Board of Nursing or a nurse practitioner appointee selected by the board from a list of three (3) recommendations submitted by the Mississippi Nurses Association, and at least one (1) member shall be a physician assistant selected by the board from a list of three (3) recommendations submitted by the Mississippi Academy of Physician Assistants.

HISTORY: Laws, 2000, ch. 470, § 3; Laws, 2007, ch. 309, § 21; Laws, 2012, ch. 409, § 10; Laws, 2015, ch. 461, § 6; Laws, 2016, ch. 419, § 13, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 12, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the second sentence of (1), substituted "June 30, 2025" for "June 30, 2020."

CHAPTER 27.

PODIATRISTS

Sec.
73-27-13. Refusal to issue license; suspension; revocation [Paragraph (1)(j) repealed effective July 1, 2025].

§ 73-27-13. Refusal to issue license; suspension; revocation [Paragraph (1)(j) repealed effective July 1, 2025].

(1) The State Board of Medical Licensure may refuse to issue, suspend, revoke or otherwise restrict any license provided for in this chapter, with the advice of the advisory committee, based upon the following grounds:

(a) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(b) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(c) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(d) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law.

(e) Performing any medical diagnosis or treatment outside the scope of podiatry as defined in Section 73-27-1.

(f) Conviction of a felony or misdemeanor involving moral turpitude.

(g) Obtaining or attempting to obtain a license by fraud or deception.

(h) Unprofessional conduct, which includes, but is not limited to:

(i) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(ii) Knowingly performing any act which in any way assists an unlicensed person to practice podiatry.

(iii) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

(iv) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

(v) Obtaining a fee as personal compensation or gain from a person on fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(vi) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(vii) Failing to identify a podiatrist's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(i) The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice podiatry in that state or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that state.

(j) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) Upon the nonissuance, suspension or revocation of a license to practice podiatry, the board may, in its discretion and with the advice of the advisory committee, reissue a license after a lapse of six (6) months. No advertising shall be permitted except regular professional cards.

(3) In its investigation of whether the license of a podiatrist should be

suspended, revoked or otherwise restricted, the board may inspect patient records in accordance with the provisions of Section 73-25-28.

(4) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, § 8900; Laws, 1938, ch. 189; Laws, 1979, ch. 413; Laws, 1980, ch. 458, § 28; Laws, 1987, ch. 500, § 7; Laws, 1996, ch. 507, § 59; Laws, 1998, ch. 389, § 2; Laws, 2012, ch. 409, § 11; Laws, 2016, ch. 419, § 14, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 13, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, extended the date of the repealer for paragraph (1)(j), by substituting "July 1, 2025" for "July 1, 2020."

CHAPTER 30.

LICENSED PROFESSIONAL COUNSELORS

Sec.

73-30-1. Declaration of policy and legislative intent.
73-30-3. Definitions.
73-30-5. Establishment of state board of examiners; reconstitution of board.
73-30-7. Oath of board members; adoption of rules and regulations; meetings; administration of examinations; investigations by board; exemption of board members from civil liability.
73-30-9. Issuance of license as Provisional Licensed Professional Counselor; issuance of license as licensed professional counselor.
73-30-11. Denial of license; resubmission of application; appeal.
73-30-17. Non-disclosure of information secured during professional consultation; exceptions.
73-30-19. Representation as "Licensed Professional Counselor" or "Provisional Licensed Professional Counselor" by unlicensed person.
73-30-21. Revocation, denial, or suspension of license; reinstatement; injunctions.
73-30-25. Inapplicability of chapter to other regulated professions [Repealed effective July 1, 2023].
73-30-29. License renewal fee; continuing education requirement.

§ 73-30-1. Declaration of policy and legislative intent.

It is declared to be the policy of this state that the activities of those persons who render services to the public as licensed professional counselors and use the title "Provisional Licensed Professional Counselor" (P-LPC) or "Licensed Professional Counselor" be regulated to ensure the protection of the public health, safety and welfare.

It is the intent of the Legislature to provide for the regulation of the practice of counseling as well as the use of the title "Provisional Licensed Professional Counselor" or "Licensed Professional Counselor" for those who offer services to the public for a fee, monetary or otherwise.

HISTORY: Laws, 1985, ch. 354, § 1, eff from and after July 1, 1985; Laws, 2018, ch. 390, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "'Provisional Licensed Professional Counselor' (P-LPC)" in the first paragraph and "'Provisional Licensed Professional Counselor'" in the second paragraph.

§ 73-30-3. Definitions.

The following terms shall have the meaning ascribed herein unless the context shall otherwise require:

(a) "Licensed professional counselor" shall mean and is restricted to any person who holds himself or herself out to the public by any title or description of services incorporating the words licensed professional counselor or psychotherapist, and who offers to render professional counseling or psychotherapy services to individuals, groups, organizations, corporations, institutions, government agencies or the general public for a fee, monetary or otherwise, implying that he or she is licensed.

(b) "Provisional licensed professional counselor" (P-LPC) shall mean and is restricted to any person who holds himself or herself out to the public by any title or description of services incorporating the words provisional licensed professional counselor or psychotherapist, and who offers to render professional counseling or psychotherapy services, under the supervision of a board qualified supervisor, to individuals, groups, organizations, corporations, institutions, government agencies or the general public for a fee, monetary or otherwise, implying that he or she is licensed.

(c) "Practice of counseling/psychotherapy" shall mean rendering, offering to render or supervising those who render to individuals, groups, organizations, corporations, institutions, government agencies or the general public any service involving the applications of counseling procedures and other related areas of the behavioral sciences to help in learning how to solve problems or make decisions related to personal growth, marriage, family or other interpersonal or intrapersonal concerns.

(d) "Counseling/Psychotherapy procedures" shall mean the application of mental health, psychological or human development principles, through cognitive, affective, behavioral or systematic intervention strategies that address wellness, personal growth or career development, as well as pathology. Counseling/Psychotherapy involves diagnosis, assessment and treatment by use of the following:

(i) Counseling/psychotherapy methods and techniques, both verbal and nonverbal, which require the application of principles, methods or procedures of understanding, predicting and/or influencing behavior, and motivation;

(ii) Informational and community resources for personal or social development;

(iii) Group and/or placement methods and techniques which serve to further the goals of counseling;

(iv) Designing, conducting and interpreting research on human subjects or any consultation on any item above; and

(v) Appraisal techniques including, but not limited to, testing of achievement, abilities, interests, aptitudes and personality.

(e) "Fees for licensed counseling services" shall mean any form of compensation received for the practice of counseling.

(f) "Board" shall mean the Mississippi State Board of Examiners for Licensed Professional Counselors.

HISTORY: Laws, 1985, ch. 354, § 2; Laws, 2008, ch. 494, § 1, eff from and after July 1, 2008; Laws, 2018, ch. 390, § 2, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, inserted "or herself" and "or her" in (a); added (b), and redesignated the remaining paragraphs accordingly.

§ 73-30-5. Establishment of state board of examiners; reconstitution of board.

(1) There is hereby established the Mississippi State Board of Examiners for Licensed Professional Counselors which shall consist of five (5) members. The initial appointments to the board shall consist of one (1) member from each of the five (5) congressional districts of Mississippi, who shall be appointed by the Governor with the advice and consent of the Senate. From and after January 1, 2004, the board shall be reconstituted to consist of five (5) members, one (1) member from each of the four (4) congressional districts, as such districts existed on January 1, 2002, and one (1) member to be selected from the state at large, who shall be appointed by the Governor with the advice and consent of the Senate. A list shall be provided to the Governor by the Mississippi Counseling Association from which the Governor may choose board members. At least two (2) names shall be included from each congressional district. Such appointments shall be made initially within sixty (60) days of the submission of the list of qualified counselors by the Mississippi Counseling Association. Thereafter, all vacancies occurring on the board shall be filled by the Governor within sixty (60) days after the vacancy occurs. The Mississippi Counseling Association shall provide a list of suggested board members for each vacancy.

(2) The board shall consist of five (5) licensed counselors, three (3) of whom are primarily engaged as licensed counselors in private or institutional practice and two (2) who are primarily engaged in teaching, training or research in counseling at the corporate or university level. All members shall be qualified electors of the State of Mississippi.

(3) The initial appointments to the board shall be for staggered terms, to be designated by the Governor at the time of appointment as follows: two (2)

members to serve for three (3) years, two (2) members to serve for two (2) years, and one (1) member to serve for one (1) year. When the board is reconstituted on January 1, 2004, all members serving on the board on that date shall continue to serve for a term of five (5) years from the beginning of the term to which he or she was appointed. From and after January 1, 2004, all subsequent appointments shall be for five-year terms. No board member shall succeed himself or herself without waiting a period of at least five (5) years after having served one (1) full five-year term. Members may hold office until their successors have been appointed and qualified, or a maximum of twelve (12) months after their term ends.

(4) There shall be appointed to the board no more than one (1) person who is employed by, or receives compensation from, any one (1) institution, organization or partnership at the time of appointment.

(5) Board members shall be reimbursed for necessary and ordinary expenses and mileage incurred while performing their duties as members of the board, at the rate authorized for public employees, from fees collected for license applications and renewals.

HISTORY: Laws, 1985, ch. 354, § 3; Laws, 2003, ch. 407, § 1, eff from and after Jan. 1, 2004; Laws, 2018, ch. 390, § 3, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in (3), inserted "or herself" in the fourth sentence, and added the last sentence.

§ 73-30-7. Oath of board members; adoption of rules and regulations; meetings; administration of examinations; investigations by board; exemption of board members from civil liability.

(1) The members of the board shall take an oath to perform faithfully the duties of their office. The oath shall be administered by a person qualified by law to administer oaths. Upon taking the oath as board members, the initial members shall be deemed licensed counselors for all purposes under this chapter. Within thirty (30) days after taking the oath of office, the first board appointed under this chapter shall meet for an organizational meeting on call by the Governor. At such meeting and at an organizational meeting in January every odd-numbered year thereafter, the board shall elect from its members a chair, vice chair and secretary-treasurer to serve for terms of two (2) years.

(2) The board shall adopt rules and regulations in compliance with the Mississippi Administrative Procedures Law, using the standards of the American Counseling Association as a guide, not inconsistent with this chapter, for the conduct of its business and the carrying out of its duties.

(3) After a person has applied for licensure, no member of the board may supervise such applicant for a fee, nor shall any member vote on any applicant previously supervised by that member.

(4) The board shall hold at least two (2) regular meetings each year, and additional meetings may be held upon the call of the chair of the board or at the written request of any four (4) members of the board.

(5) The board-approved examination for licensure shall be administered at least once a year. Examinations may be written, oral, situational, or any combination thereof, and shall deal with theoretical and applied fields in counseling. In written examinations, the examinee's name shall not be disclosed to any person grading the examination until that grading is complete.

(6) The board shall be empowered to make reasonable rules and regulations regarding its operation and to receive and disburse revenues derived from application, licensing, examination and renewal fees. All monies received by the board shall be deposited in a special account in the State Treasury to be designated "Board of Examiners for Licensed Professional Counselors Account." This account shall fund all activities of the board.

(7) Upon the filing of a complaint by any citizen of this state with the board against a licensed professional counselor or provisional licensed professional counselor or upon the board's own motion, the board may:

(a) Compel the attendance of witnesses;

(b) Request the production of books, documents and other papers;

(c) Administer oaths to witnesses; and

(d) Hear testimony and receive evidence concerning all matters within its jurisdiction.

(8) The members of the board are hereby individually exempt from any civil liability as a result of any action taken by the board.

HISTORY: Laws, 1985, ch. 354, § 4; Laws, 2003, ch. 407, § 2; Laws, 2008, ch. 494, § 2, eff from and after July 1, 2008; Laws, 2018, ch. 390, § 9, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment substituted "chair" for "chairman" everywhere it appears; and inserted "or provisional licensed professional counselor" in (7).

§ 73-30-9. Issuance of license as Provisional Licensed Professional Counselor; issuance of license as licensed professional counselor.

(1) The board shall issue a license as a provisional licensed professional counselor, without regard to race, religion, sex or national origin, to each applicant who furnishes satisfactory evidence of the following:

(a) The applicant has completed an application on a form prescribed by the board accompanied by a nonrefundable application fee of Fifty Dollars ($50.00).

(b) The applicant is at least twenty-one (21) years of age.

(c) The applicant is of good moral character.

(d) The applicant is a citizen of the United States, or has an immigration document to verify legal alien work status in the United States. The immigration document must be current and issued by the United States Immigration Bureau.

(e) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.

(f) The applicant shall have a minimum acceptable graduate semester hour or acceptable quarter-hour master's degree as determined by the board primarily in counseling or a related counseling field from a regionally or nationally accredited college or university program in counselor education or a related counseling program subject to board approval. All applicants shall provide official transcripts of all graduate work.

(g) The applicant must pass the examination approved by the board, as set forth in Section 73-30-7(5).

(h) A provisional license issued under this section shall require that the individual confine one's practice to a board-approved site and accrue counseling experience under the supervision of a board-qualified supervisor.

(i) The limited license shall be renewable for not more than four (4) years, with a nonrefundable license fee in the amount provided in Section 73-30-29. Licensees may appeal to the board for an extension of the renewal period.

(j) Each applicant for licensure shall apply to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety and the Federal Bureau of Investigation Identification Division for this purpose.

(2) The board shall issue a license as a licensed professional counselor, without regard to race, religion, sex or national origin, to each applicant who furnishes satisfactory evidence of the following:

(a) The applicant has completed an application on a form prescribed by the board accompanied by a nonrefundable full application fee of Fifty Dollars ($50.00).

(b) The applicant is at least twenty-one (21) years of age.

(c) The applicant is of good moral character.

(d) The applicant is a citizen of the United States, or has an immigration document to verify legal alien work status in the United States. The immigration document must be current and issued by the United States Immigration Bureau.

(e) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.

(f) The applicant shall have a minimum acceptable graduate semester hour or acceptable quarter-hour master's degree as determined by the board primarily in counseling or a related counseling field from a regionally or nationally accredited college or university program in counselor education or a related counseling program subject to board approval. All applicants shall provide official transcripts of all graduate work.

(g) The applicant must pass the examination approved by the board, as set forth in Section 73-30-7(5).

(h) The applicant has had post graduate supervised experience in professional counseling acceptable to the board. Applicant shall submit verification of supervised experience.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(i) The board shall require each first-time applicant for licensure and may require applicants for license renewal to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant for licensure and each renewal applicant as required by the board shall apply to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety and the Federal Bureau of Investigation Identification Division for this purpose.

HISTORY: Laws, 1985, ch. 354, § 5; Laws, 1997, ch. 588, § 55; Laws, 2008, ch. 494, § 3, eff from and after July 1, 2008; Laws, 2018, ch. 390, § 4, eff from and after July 1, 2018; Laws, 2020, ch. 371, § 1, eff from and after passage (approved June 25, 2020).

Joint Legislative Committee Note — Pursuant to 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in this section, as amended by Laws of 2018, Chapter 390. The phrase ". . . or related counseling field. . ." was changed to ". . . or a related counseling field. . ." in (1)(f). The Joint Committee ratified the correction at the August 14, 2018, meeting of the Committee.

Amendment Notes — The 2018 amendment rewrote the section to prescribe qualifications for licensure as a provisional licensed professional counselor and as a licensed professional counselor, to prescribe fees, and to require fingerprint criminal history records background checks for licensees.

The 2020 amendment, effective June 25, 2020, in (1)(a), substituted "application fee" for "licensing fee"; in (1)(f), substituted "determined by the board" for "determined by Section 73-30-5," and "subject to board approval" for "subject to Mississippi State Board of Examiners for Licensed Professional Counselors' "; in (1)(i), substituted "fee in the amount provided in Section 73-30-29" for "fee of Fifty Dollars ($50.00) per year"; in (2)(a), deleted "licensing" preceding "fee of Fifty Dollars"; in (2)(f), substituted "determined by the board" for "determined by the Mississippi State Board of Examiners for Licensed Professional Counselors in Section 73-30-5"; and in (2)(i), in the second sentence, inserted "each" preceding "renewal" and "applicant as required by the board" thereafter.

§ 73-30-11. Denial of license; resubmission of application; appeal.

Following a decision by the board not to license, the applicant may request a hearing at the next regularly scheduled meeting of the board. The applicant will be notified of the decision of the majority of the board members within sixty (60) days of the hearing. Upon a final decision by the board not to license, the applicant may (after waiting a period of at least one (1) year) resubmit the application accompanied by new evidence and a nonrefundable application fee of One Hundred Dollars ($100.00) for reconsideration for licensure.

The applicant may appeal the decision of the board to the circuit court of the county of the applicant's residence. If an applicant does not reside in Mississippi, the applicant may appeal the decision of the board to the Hinds County Circuit Court. Any appeal to the circuit court must be taken within thirty (30) days of the date of the board's decision. An appeal of the decision of the circuit court may be taken to the Mississippi Supreme Court not later than sixty (60) days from the date of the decision by the circuit court.

HISTORY: Laws, 1985, ch. 354, § 6, eff from and after July 1, 1985; Laws, 2018, ch. 390, § 5, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in the second paragraph, added the second sentence, and substituted "thirty (30) days" for "sixty (60) days" in the third sentence.

§ 73-30-17. Non-disclosure of information secured during professional consultation; exceptions.

No licensed professional counselor or provisional licensed professional counselor may disclose any information acquired during professional consultation with clients except:

(a) With the written consent of the client or, in the case of death or disability or in the case of a minor, with the written consent of his parent, legal guardian or conservator, or other person authorized by the court to file suit;

(b) When a communication reveals the contemplation of a crime or harmful act, or intent to commit suicide; or

(c) When a person waives the privilege by bringing charges against a licensed professional counselor or provisional licensed professional counselor for breach of privileged communication, or any other charges.

HISTORY: Laws, 1985, ch. 354, § 9, eff from and after July 1, 1985; Laws, 2018, ch. 390, § 10, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or provisional licensed professional counselor" in the introductory paragraph and in (c).

§ 73-30-19. Representation as "Licensed Professional Counselor" or "Provisional Licensed Professional Counselor" by unlicensed person.

Any person who represents himself or herself by the title "Licensed Professional Counselor" or "Provisional Licensed Professional Counselor" without having first complied with the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) for each offense.

HISTORY: Laws, 1985, ch. 354, § 10, eff from and after July 1, 1985; Laws, 2018, ch. 390, § 11, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or herself" and "or 'Provisional Licensed Professional Counselor'."

§ 73-30-21. Revocation, denial, or suspension of license; reinstatement; injunctions.

(1) The board may, after notice and opportunity for a hearing, suspend, revoke or refuse to issue or renew a license or may reprimand the license holder, upon a determination by the board that such license holder or applicant for licensure has:

(a) Been adjudged by any court to be mentally incompetent or have had a guardian of person appointed;

(b) Been convicted of a felony;

(c) Sworn falsely under oath or affirmation;

(d) Obtained a license or certificate by fraud, deceit or other misrepresentation;

(e) Engaged in the conduct of professional counseling in a grossly negligent or incompetent manner;

(f) Intentionally violated any provision of this chapter;

(g) Violated any rules or regulations of the board; or

(h) Aided or assisted another in falsely obtaining a license under this chapter.

(2) Appeals from disciplinary action are to be brought in the circuit court in the county of residence of the practitioner. In the event the practitioner resides out of state the appeal should be brought in Hinds County Circuit Court.

(3) The board may assess and levy upon any licensee, practitioner or applicant for licensure the costs incurred or expended by the board in the investigation and prosecution of any licensure or disciplinary action, including, but not limited to, the costs of process service, court reporters, expert witnesses, investigators and attorney's fees.

(4) No revoked license may be reinstated within twelve (12) months after such revocation. Reinstatement thereafter shall be upon such conditions as the board may prescribe, which may include, without being limited to, successful passing of the examination required by this chapter.

(5) A license certificate issued by the board is the property of the board and must be surrendered on demand.

(6) The chancery court is hereby vested with the jurisdiction and power to enjoin the unlawful practice of counseling and/or the false representation as a licensed counselor in a proceeding brought by the board or any members thereof or by any citizen of this state.

(7) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or

reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Laws, 1985, ch. 354, § 11; Laws, 1996, ch. 507, § 63, eff from and after July 1, 1996; Laws, 2018, ch. 390, § 6, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment added (2) and (3) and redesignated remaining subsections accordingly.

§ 73-30-25. Inapplicability of chapter to other regulated professions [Repealed effective July 1, 2023].

It is not the intent of this chapter to regulate against members of other duly regulated professions in this state who do counseling in the normal course of the practice of their own profession. This chapter does not apply to:

(a) Any person registered, certified or licensed by the state to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which he or she is registered, certified or licensed;

(b) Certified school counselors when they are practicing counseling within the scope of their employment;

(c) Certified vocational counselors when they are practicing vocational counseling within the scope of their employment;

(d) [Deleted]

(e) Student interns or trainees in counseling pursuing a course of study in counseling in a regionally or nationally accredited institution of higher learning or training institution if activities and services constitute a part of the supervised course of study, provided that such persons be designated a counselor intern;

(f) [Deleted]

(g) [Deleted]

(h) Duly ordained ministers or clergy while functioning in their ministerial capacity and duly accredited Christian Science practitioners;

(i) Professional employees of regional mental health centers, state mental hospitals, vocational rehabilitation institutions, youth court counselors and employees of the Mississippi Department of Employment Security or other governmental agency so long as they practice within the scope of their employment;

(j) Professional employees of alcohol or drug abuse centers or treatment facilities, whether privately or publicly funded, so long as they practice within the scope of their employment;

(k) Private employment counselors;

(*l*) Any nonresident temporarily employed in this state to render counseling services for not more than thirty (30) days in any year, if in the opinion of the board the person would qualify for a license under this chapter and if the person holds any license required for counselors in his or her home state or country; and

(m) [Deleted]

HISTORY: Laws, 1985, ch. 354, § 13; Laws, 2004, ch. 572, § 47; Laws, 2008, ch. 494, § 5; reenacted without change, Laws, 2008, ch. 30, § 47; reenacted without change, Laws, 2010, ch. 559, § 47; reenacted without change, Laws, 2011, ch. 471, § 48; reenacted without change, Laws, 2012, ch. 515, § 48, eff from and after July 1, 2012; Laws, 2018, ch. 390, § 7, eff from and after July 1, 2018; reenacted without change, Laws, 2019, ch. 451, § 47, eff from and after passage (April 3, 2019).

Editor's Notes — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

"SECTION 60. Sections 8 through 59 of this shall stand repealed on July 1, 2023."

Amendment Notes — The 2018 amendment inserted "or she" in (a); deleted (d), which read: "Counselors in postsecondary institutions when they are practicing within the scope of their employment"; deleted (f), which read: "Professionals employed by regionally or nationally accredited postsecondary institutions as counselor educators when they are practicing counseling within the scope of their employment"; inserted "or her" in (l); and deleted (m), which read: "Any social workers holding a master's degree in social work from a school accredited by the Council on Social Work Education and who do counseling in the normal course of the practice of their own profession."

The 2019 amendment, effective April 3, 2019, reenacted the section without change.

§ 73-30-29. License renewal fee; continuing education requirement.

(1) Except as provided in Section 33-1-39, the renewal of license fee for licensed professional counselors under this chapter shall be Two Hundred Twenty Dollars ($220.00) per biennial licensing renewal period, and the renewal of license fee for provisional licensed professional counselors under this chapter shall be Fifty Dollars ($50.00) per annual licensing renewal period.

(2) Provisional licensed professional counselor licenses will be renewed annually on or before June 30. The evidence of the following must be received in the office of the board on or before June 30 of the year of renewal by every license holder who intends to continue to practice: Each active provisional licensed professional counselor licensee must accrue six (6) continuing education hours during the preceding license period, two (2) of which must involve topics in professional ethics or legal issues in the delivery of counseling services.

(3) Licensed professional counselor licenses will be renewed biennially on or before June 30 of the applicable year. The evidence of the following must be received in the office of the board on or before June 30 of the year of renewal by every license holder who intends to continue to practice: Each active licensed professional counselor licensee must accrue twenty-four (24) continu-

ing education hours during the preceding license period, six (6) of which must involve topics in professional ethics or legal issues in the delivery of counseling services.

HISTORY: Laws, 1985, ch. 354, § 15; Laws, 2003, ch. 407, § 3; Laws, 2007, ch. 309, § 24; Laws, 2008, ch. 494, § 6; Laws, 2015, ch. 466, § 1, eff from and after passage (approved Apr. 20, 2015); Laws, 2018, ch. 390, § 8, eff from and after July 1, 2018; Laws, 2020, ch. 371, § 2, eff from and after passage (approved June 25, 2020).

Amendment Notes — The 2018 amendment inserted "and provisional licensed professional counselor" in (2); inserted "and Provisional Licensed Professional Counselor" in (3); and deleted (4), which read: "This section shall stand repealed on July 1, 2020."

The 2020 amendment, effective June 25, 2020, rewrote (1), which read: "Except as provided in Section 33-1-39, the renewal of license fee under this chapter shall be Two Hundred Dollars ($200.00) per biennial licensing renewal period. License renewal fees may be increased by the board as deemed necessary, but may not be increased by more than ten percent (10%) of the previous year's fee"; rewrote (2), which read: "From and after January 1, 2004, a licensed professional counselor and provisional licensed professional counselor must complete twelve (12) hours of continuing education before a license may be renewed. Continuing education courses must be in the field in which the counselor practices. A minimum of three (3) hours of continuing education must be in the field of professional ethics. The board may determine which continuing education courses are admissible, and the decisions of the board are final. Courses submitted for other certification processes will be admissible. The board must adhere to the guidelines as provided by the National Board of Certified Counselors with regard to credit for teaching courses, workshops and serving on boards"; and in (3), substituted "Licensed professional counselor licenses" for "All licenses" and "office of the board" for "office of the State Board of Examiners for Licensed Professional Counselors," and deleted "and Provisional Licensed Professional Counselor" following "Each active licensed professional counselor."

CHAPTER 31.

PSYCHOLOGISTS

Sec.

73-31-15.	Applicant previously licensed in another jurisdiction [Repealed effective July 1, 2022].
73-31-31.	Repeal of Sections 73-31-1 through 73-31-29.

§ 73-31-1. Declaration of public policy [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-101; Laws, 1966, ch. 483, § 1; reenacted, Laws, 1980, ch. 495, § 1; reenacted, Laws, 1988, ch. 354, § 1; Laws, 2011, ch. 498, § 1; reenacted without change, Laws, 2014, ch. 465, § 1, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 320, § 1, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 1, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-3. Definitions [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-102; Laws, 1966, ch. 483, § 2; reenacted, Laws, 1980, ch. 495, § 2; reenacted, Laws, 1988, ch. 354, § 2; Laws, 1992, ch. 436, § 1; Laws, 1994, ch. 641, § 1; Laws, 1998, ch. 355, § 1; Laws, 2001, ch. 399, § 1; Laws, 2011, ch. 498, § 2; reenacted without change, Laws, 2014, ch. 465, § 2, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 320, § 1, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 2, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-5. Mississippi Board of Psychology; membership; term of office; appointment; qualifications [Repealed effective July 1, 2022].

(1) There is created a Mississippi Board of Psychology consisting of seven (7) members who are citizens of the United States and residing in the State of Mississippi. One (1) member of the board shall be a person who is not a psychologist or a mental health professional but who has expressed a continuing interest in the field of psychology. Each board member shall otherwise be licensed under this chapter. The composition of the board shall at all times include psychologists engaged in the professional practice of psychology and psychologists who are faculty at institutions of higher learning that grant doctoral degrees or staff or faculty of an American Psychological Association accredited doctoral level internship or postdoctoral fellowship.

(2) When the term of each psychologist member ends the Governor shall, within thirty (30) days, appoint as his or her successor, for a term of five (5) years, a psychologist who holds a doctoral degree from an institution of higher education and who has been licensed under this chapter. When the term of the member who is not a psychologist ends, the Governor shall, within thirty (30) days, appoint a qualified person as his or her successor for a term of five (5) years. Any board member whose term has expired may continue to holdover and serve with all rights and responsibilities until the new appointment occurs. No board member shall serve for more than two (2) consecutive terms. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the Governor by appointment for the unexpired term of the member. All appointments of psychologist members of the board shall be made from a list containing the names of at least three (3) eligible nominees for each vacancy submitted by the Mississippi Psychological Association. Each board member shall receive a certificate of appointment from the Governor before entering on the discharge of his or her duties, and within thirty (30)

days from the effective date of his appointment shall subscribe an oath for the faithful performance of his or her official duty before any officer authorized to administer oaths in this state, and shall file the same with the Secretary of State.

(3) The Governor may remove any board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(4) Each board member shall serve without compensation, but shall receive actual traveling and incidental expenses necessarily incurred while engaged in the discharge of official duties.

HISTORY: Codes, 1942, § 8877-103; Laws, 1966, ch. 483, § 3; reenacted and amended, Laws, 1980, ch. 495, § 3; reenacted, Laws, 1988, ch. 354, § 3; Laws, 1992, ch. 436, § 2; Laws, 1994, ch. 641, § 2; Laws, 1998, ch. 355, § 2; Laws, 2001, ch. 399, § 2; Laws, 2011, ch. 498, § 3; reenacted without change, Laws, 2014, ch. 465, § 3, eff from and after July 1, 2014; reenacted and amended, Laws, ch. 320, § 3, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by substituting "American Psychological Association accredited" for "American Psychological Association approved" in the last sentence of (1), and by adding the third sentence of (2).

§ 73-31-7. State Board of Psychology; meetings; officers; powers and duties [Repealed effective July 1, 2022].

(1) The board shall annually elect officers from its membership. The board shall meet at any other times as it deems necessary or advisable, or as deemed necessary and advisable by the chairman or a majority of its members or the Governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing. Any meeting at which the chairman is not present shall be chaired by his designee.

(2) The board is authorized and empowered to:

(a) Adopt and, from time to time, revise any rules and regulations not inconsistent with, and as may be necessary to carry into effect the provisions of this chapter.

(b) Within the funds available, employ and/or contract with a stenographer and other personnel, and contract for services, as are necessary for the proper performance of its work under this chapter.

(c) Adopt a seal, and the executive secretary or board administrator shall have the care and custody thereof.

(d) Examine, license, and renew the license of duly qualified applicants.

(e) Conduct hearings upon complaints concerning the disciplining or licensing of applicants and psychologists.

(f) Deny, approve, withhold, revoke, suspend and/or otherwise discipline applicants and licensed psychologists.

(g) Issue an educational letter to a licensee in order to assist that individual in his or her practice as a psychologist. Such a letter will not be considered to be disciplinary action.

(h) Cause the prosecution and enjoinder of all persons violating this chapter, and incur necessary expenses therefor.

(i) Charge a fee of not more than Seven Hundred Dollars ($700.00) to a qualified psychologist as determined by the board who is applying for certification by the board to conduct examinations in civil commitment proceedings.

(j) Purchase general liability insurance coverage, including errors and omissions insurance, to cover the official actions of the board members and contract personnel and suits against them in their individual capacity. That coverage shall be in an amount determined by the board to be adequate, and the costs of the insurance shall be paid out of any funds available to the board.

(k) As additional responsibilities, effective July 1, 2018, the board shall administer and support the function of the Mississippi Autism Board under Sections 73-75-1 through 73-75-25, relating to the licensure of licensed behavior analysts and licensed assistant behavior analysts.

(3) Within thirty (30) days after the close of each fiscal year ending June 30, the board shall submit an official report, reviewed and signed by all board members, to the Governor concerning the work of the board during the preceding fiscal year. The report shall include the names of all psychologists to whom licenses have been granted; any cases heard and decisions rendered in relation to the work of the board; the names, remuneration and duties of any employees of the board; and an account of all monies received and expended by the board.

HISTORY: Codes, 1942, § 8877-104; Laws, 1966, ch. 483, § 4; reenacted and amended, Laws, 1980, ch. 495, § 4; Laws, 1984, ch. 520, § 1; reenacted, Laws, 1988, ch. 354, § 4; Laws, 1992, ch. 436, § 3; Laws, 1994, ch. 641, § 3; Laws, 1998, ch. 355, § 3; Laws, 2001, ch. 399, § 3; Laws, 2011, ch. 498, § 4; reenacted without change, Laws, 2014, ch. 465, § 4; Laws, 2017, 1st Ex Sess, ch. 7, § 32, eff from and after passage (approved June 23, 2017); reenacted and amended, Laws, ch. 320, § 4, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by, in (1), rewriting the first and fourth sentences, which read: "The board shall annually elect from its membership a chairman and executive secretary at a meeting held during the last two (2) quarters of the fiscal year" and "A majority of the board shall constitute a quorum at any meeting or hearing; except that when only four (4) members are present, decisions not gaining unanimous support shall be decided by mail ballot to all board members within fifteen (15) days succeeding the board meeting," respectively.

§ 73-31-9. Fees; renewal of license; deposit of money received by board in special fund; regulation of fund; audit [Repealed effective July 1, 2022].

(1) All fees from applicants seeking licensing under this chapter and all license renewal fees received under this chapter shall be nonrefundable. The board may charge a late fee for nonrenewal by June 30 of each year.

(2) The board shall charge an application fee to be determined by the board, but not to exceed Seven Hundred Dollars ($700.00), to applicants for licensing, and shall charge the applicant for the expenses incurred by the board for examination of the applicant. The board may increase the application fee as necessary, but may not increase the fee by more than Fifty Dollars ($50.00) above the amount of the previous year's fee.

(3) Except as provided in Section 33-1-39, every licensed psychologist in this state shall annually pay to the board a fee determined by the board, but not to exceed Seven Hundred Dollars ($700.00); and the credentialing coordinator shall thereupon issue a renewal of the license for a term of one (1) year. The board may increase the license renewal fee as necessary, but may not increase the fee by more than Fifty Dollars ($50.00) above the amount of the previous year's fee. The license of any psychologist who fails to renew during the month of June in each and every year shall lapse; the failure to renew the license, however, shall not deprive the psychologist of the right of renewal thereafter. The lapsed license may be renewed within a period of two (2) years after the lapse upon payment of all fees in arrears. A psychologist wishing to renew a license that has been lapsed for more than two (2) years shall be required to reapply for licensure.

(4) Every odd-numbered year, no psychologist license shall be renewed unless the psychologist shows evidence of a minimum of twenty (20) clock hours of continuing education activities approved by the board.

(5) All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for that purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and disbursements from the special fund shall be made by the State Treasurer only upon warrants issued by the State Fiscal Officer upon requisitions signed by the chairman or executive secretary of the board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund. The State Auditor shall audit the financial affairs of the board and the transactions involving the special fund at least once a year in the same manner as for other special fund agencies.

HISTORY: Codes, 1942, § 8877-105; Laws, 1966, ch. 483, § 5; Laws, 1979, ch. 412; reenacted, Laws, 1980, ch. 495, § 5; Laws, 1984, ch. 520, § 2; reenacted, Laws, 1988, ch. 354, § 5; Laws, 1992, ch. 436, § 4; Laws, 1992, ch. 502, § 5; Laws, 1994, ch. 641, § 4; Laws, 2001, ch. 399, § 4; Laws, 2007, ch. 309, § 25; Laws, 2011, ch. 498, § 5; reenacted without change, Laws, 2014, ch. 465, § 5, eff from and after July 1, 2014; reenacted and amended, Laws, ch. 320, § 5, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by, in (4), deleting "On July 1, 1993, and" from the beginning and making a related change, and by deleting "thereafter" preceding "no psychologist license."

§ 73-31-11. Records [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-106; Laws, 1966, ch. 483, § 6; reenacted, Laws, 1980, ch. 495, § 6; reenacted, Laws, 1988, ch. 354, § 6; Laws, 2011, ch. 498, § 6; reenacted without change, Laws, 2014, ch. 465, § 6, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 6, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 6, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-13. Licensing; applications; qualifications; examinations [Repealed effective July 1, 2022].

The board shall issue a license as a psychologist to each applicant who files an application upon a form and in the manner as the board prescribes, accompanied by the fee as is required by this chapter; and who furnishes evidence satisfactory to the board that he or she:

(a) Is at least twenty-one (21) years of age; and

(b) Is of good moral character. The applicant must have successfully been cleared for licensure through an investigation that consists of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure. For the purposes of this chapter, good moral character includes an absence of felony convictions or misdemeanor convictions involving moral turpitude as established by a criminal background check. Applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose; and

(c) Is not in violation of any of the provisions of this chapter and the rules and regulations adopted under this chapter, and is not currently under investigation by another licensure board; and

(d) Holds a doctoral degree in psychology from an institution of higher education that is: regionally accredited by an accrediting body recognized by the United States Department of Education, or authorized by Provincial statute or Royal Charter to grant doctoral degrees. From a program accredited by the American Psychological Association, or the Canadian Psychological Association, and from a program that requires at least one (1) year of continuous, full-time residence at the educational institution granting the doctoral degree. For graduates from newly established programs seeking accreditation or in areas where no accreditation exists, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board. For applicants graduating from doctoral level psychology training programs outside of the United States of America or Canada, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board; and

(e) Has two (2) years of supervised experience in the same area of emphasis as the academic degree, which includes an internship and one (1) year of supervised post-doctoral experience, that meet the standards of training as defined by the board. Each year (or equivalent) shall be comprised of at least one thousand eight hundred (1,800) hours of actual work, to include direct service, training and supervisory time. A pre-doctoral internship may be counted as one (1) of the two (2) years of experience; and

(f) Demonstrates professional knowledge by passing written (as used in this paragraph, the term "written" means either paper and pencil or computer administered or computerized testing) and oral examinations in psychology prescribed by the board; except that upon examination of credentials, the board may, by unanimous consent, consider these credentials adequate evidence of professional knowledge.

Upon investigation of the application and other evidence submitted, the board shall, not less than thirty (30) days before the examination, notify each applicant that the application and evidence submitted is satisfactory and accepted or unsatisfactory and rejected; if rejected, the notice shall state the reasons for the rejection.

The place of examination shall be designated in advance by the board, and the examination shall be given at such time and place and under such supervision as the board may determine. The examination used by the board shall consist of written tests and oral tests, and shall fairly test the applicant's knowledge and application thereof in those areas deemed relevant by the board. All examinations serve the purpose of verifying that a candidate for licensure has acquired a basic core of knowledge in the discipline of psychology and can apply that knowledge to the problems confronted in the practice of psychology within the applicant's area of practice.

The board shall evaluate the results from both the written and oral examinations. The passing scores for the written and oral examinations shall be established by the board in its rules and regulations. If an applicant fails to receive a passing score on the entire examination, he or she may reapply and shall be allowed to take a later examination. An applicant who has failed two (2) successive examinations by the board may not reapply until after two (2) years from the date of the last examination failed. The board shall keep the written examination scores, and an accurate transcript of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof, as part of its records for at least two (2) years after the date of examination.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

HISTORY: Codes, 1942, § 8877-107; Laws, 1966, ch. 483, § 7; reenacted, Laws, 1980, ch. 495, § 7; reenacted, Laws, 1988, ch. 354, § 7; Laws, 1992, ch. 436, § 5; Laws, 1994, ch. 641, § 5; Laws, 1997, ch. 588, § 56; Laws, 1998, ch. 355, § 4; Laws, 2001, ch. 399, § 5; Laws, 2011, ch. 498, § 7; Laws, 2012, ch. 363, § 1; reenacted without change, Laws, 2014, ch. 465, § 7, eff from and after July 1, 2014; reenacted and amended, Laws, ch. 320, § 7, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by deleting former (b), which read: "Is a citizen of the United States, a Canadian citizen applying for licensure under the terms of a reciprocity agreement, or has declared his or her intention to become a citizen. A statement by the applicant under oath that he or she is a citizen, a Canadian citizen applying for licensure under the terms of a reciprocity agreement, or that he or she intends to apply for citizenship when he or she becomes eligible to make that application, shall be sufficient proof of compliance with this requirement; and" and redesignating the remaining subsections accordingly, by, in (d), dividing the former first sentence into the present first and second sentences by substituting a period for "and:" and in the second sentence, by adding "and from a program ... the doctoral degree" at the end, by substituting "one thousand eight hundred (1,800) hours" for "two thousand (2,000) hours" in (e), by deleting the former next-to-last undesignated paragraph, which read: "If any psychologist duly licensed under this chapter, by virtue of additional training and experience, becomes qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing, and wishes to offer that service under the provisions of this chapter, he or she shall at the time of annual renewal of licenses submit additional credentials and be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her specialty. The board may charge a reasonable fee for evaluating these credentials and the applicant's knowledge" and by making a minor grammatical correction.

§ 73-31-14. Temporary licenses and practice certificates [Repealed effective July 1, 2022].

HISTORY: Laws, 1998, ch. 355, § 5; Laws, 2001, ch. 399, § 6; Laws, 2011, ch. 498, § 8; Laws, 2013, ch. 350, § 29; reenacted without change, Laws, 2014, ch. 465, § 8, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 320, § 8, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 8, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-15. Applicant previously licensed in another jurisdiction [Repealed effective July 1, 2022].

(1) Upon application accompanied by the proper fee, the board may issue a license to any psychologist who furnishes, upon a form and in the manner as the board prescribes, evidence satisfactory to the board that he or she is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or possesses a valid Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards; or has at least twenty (20) years of licensure to practice in another state,

territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico or Canadian Province when that license was based on a doctoral degree; and

(a) Has had no disciplinary sanction during the entire period of licensure; and

(b) Is not currently under investigation by another licensure board; and

(c) Has demonstrated current qualification by successfully passing the oral examination and jurisprudence examination.

(2) The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

HISTORY: Codes, 1942, § 8877-108; Laws, 1966, ch. 483, § 8; reenacted, Laws, 1980, ch. 495, § 8; reenacted, Laws, 1988, ch. 354, § 8; Laws, 1998, ch. 355, § 6; Laws, 2001, ch. 399, § 7; Laws, 2011, ch. 498, § 9; Laws, 2013, ch. 350, § 30; reenacted without change, Laws, 2014, ch. 465, § 9, eff from and after July 1, 2014; reenacted and amended, Laws, ch. 320, § 8, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by rewriting (1), which read: "Upon application accompanied by the proper fee, the board may, without written or oral examination, issue a license to any person who furnishes, upon a form and in the manner as the board prescribes, evidence satisfactory to the board that he or she (a) is licensed or certified as a psychologist by another state, territorial possession of the United States, District of Columbia, Commonwealth of Puerto Rico or Canadian Province, if the requirements for that license or certification are the substantial equivalent of this chapter; or (b) is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or (c) possesses a valid Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards," by deleting the former introductory paragraph of (2), which read: "In addition, the board may issue a license, without written examination, to an applicant who," by deleting the former (2)(a) designation preceding "Has at least," and adding the paragraph to the end of (1), by redesignating former (2)(b) through (d) as present (1)(a) through (c), by adding "jurisprudence examination" at the end of (1)(c), by deleting former (2)(e), which read: "Has completed the appropriate application and paid the fees as required by the board," and by redesignating former (3) as (2).

§ 73-31-17. Creation of the status of psychologist emeritus; qualifications; annual renewal [Repealed effective July 1, 2022].

HISTORY: Laws, 2011, ch. 498, § 10; reenacted without change, Laws, 2014, ch. 465, § 10, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 10, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 10 effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-19. Licenses; issuance; filing [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-111; Laws, 1966, ch. 483, § 11; reenacted, Laws,

1980, ch. 495, § 10; reenacted, Laws, 1988, ch. 354, § 10; Laws, 2001, ch. 399, § 8; Laws, 2011, ch. 498, § 11; reenacted without change, Laws, 2014, ch. 465, § 11, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 320, § 11, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 11, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-21. Licenses; revocation or suspension; grounds; hearing; issuance of nondisciplinary educational letter [Repealed effective July 1, 2022].

(1) The board, by an affirmative vote of at least four (4) of its seven (7) members, shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this chapter, or otherwise discipline a licensed psychologist, upon proof that the applicant or licensed psychologist:

(a) Has violated the current code of ethics of the American Psychological Association or other codes of ethical standards adopted by the board; or

(b) Has been convicted of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof; or

(c) Is using any substance or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that the use impairs his or her ability to perform the work of a professional psychologist with safety to the public; or

(d) Has impersonated another person holding a psychologist license or allowed another person to use his or her license; or

(e) Has used fraud or deception in applying for a license or in taking an examination provided for in this chapter; or

(f) Has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons; or

(g) Has performed psychological services outside of the area of his or her training, experience or competence; or

(h) Has allowed his or her name or license issued under this chapter to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence; or

(i) Is legally adjudicated mentally incompetent, the record of that adjudication being conclusive evidence thereof; or

(j) Has willfully or negligently violated any of the provisions of this chapter. The board may recover from any person disciplined under this chapter, the costs of investigation, prosecution, and adjudication of the disciplinary action.

(2) Notice shall be effected by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days nor more than sixty (60) days from the date of the mailing or that service, at which time the applicant or licensee shall be given an

opportunity for a prompt and fair hearing. For the purpose of the hearing, the board, acting by and through its executive secretary, may subpoena persons and papers on its own behalf and on behalf of the applicant or licensee, may administer oaths and may take testimony. That testimony, when properly transcribed, together with the papers and exhibits, shall be admissible in evidence for or against the applicant or licensee. At the hearing, the applicant or licensee may appear by counsel and personally in his or her own behalf. Any person sworn and examined by a witness in the hearing shall not be held to answer criminally, nor shall any papers or documents produced by the witness be competent evidence in any criminal proceedings against the witness other than for perjury in delivering his or her evidence. On the basis of any such hearing, or upon default of applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of that determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking or suspending the license shall become final thirty (30) days after so mailed or served, unless within that period the applicant or licensee appeals the decision to the chancery court, under the provisions hereof, and the proceedings in chancery shall be conducted as other matters coming before the court. All proceedings and evidence, together with exhibits, presented at the hearing before the board shall be admissible in evidence in court in the appeal.

(3) The board may subpoena persons and papers on its own behalf and on behalf of the respondent, may administer oaths and may compel the testimony of witnesses. It may issue commissions to take testimony, and testimony so taken and sworn to shall be admissible in evidence for and against the respondent. The board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance therewith.

(4) Every order and judgment of the board shall take effect immediately on its promulgation unless the board in the order or judgment fixes a probationary period for the applicant or licensee. The order and judgment shall continue in effect unless upon appeal the court by proper order or decree terminates it earlier. The board may make public its order and judgments in any manner and form as it deems proper. It shall, in event of the suspension or revocation of a license, direct the clerk of the circuit court of the county in which that license was recorded to cancel that record.

(5) Nothing in this section shall be construed as limiting or revoking the authority of any court or of any licensing or registering officer or board, other than the Mississippi Board of Psychology, to suspend, revoke and reinstate licenses and to cancel registrations under the provisions of Section 41-29-311.

(6) Suspension by the board of the license of a psychologist shall be for a period not exceeding one (1) year. At the end of this period the board shall reevaluate the suspension, and shall either reinstate or revoke the license. A person whose license has been revoked under the provisions of this section may reapply for a license after more than two (2) years have elapsed from the date that the denial or revocation is legally effective.

(7) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(8) The board may issue a nondisciplinary, educational letter to licensees as provided in Section 73-31-7(2)(g). The board may also direct a psychologist to obtain a formal assessment of ability to practice safely if there is reason to believe there may be impairment due to substance abuse or mental incapacity. Licensees who may be impaired, but who are able to practice safely, may be required by the board to seek appropriate treatment and/or supervision. That action by the board in itself will not be considered disciplinary.

HISTORY: Codes, 1942, § 8877-112; Laws, 1966, ch. 483, § 12; reenacted, Laws, 1980, ch. 495, § 11; reenacted, Laws, 1988, ch. 354, § 11; Laws, 1992, ch. 436, § 6; Laws, 1994, ch. 641, § 6; Laws, 1996, ch. 507, § 64; Laws, 1998, ch. 355, § 7; Laws, 2001, ch. 399, § 9; Laws, 2011, ch. 498, § 12; reenacted without change, Laws, 2014, ch. 465, § 12, eff from and after July 1, 2014; reenacted and amended, Laws, ch. 320, § 12, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment reenacted and amended the section by adding (1)(g) and redesignating the remaining paragraphs accordingly, and by making a minor grammatical change in (2).

§ 73-31-23. Violations; penalties [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-113; Laws, 1966, ch. 483, § 13; reenacted, Laws, 1980, ch. 495, § 12; Laws, 1984, ch. 520, § 3; reenacted, Laws, 1988, ch. 354, § 12; Laws, 1992, ch. 436, § 7; Laws, 1994, ch. 641, § 7; Laws, 2001, ch. 399, § 10; Laws, 2011, ch. 498, § 13; reenacted without change, Laws, 2014, ch. 465, § 13, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 13, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 13, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-25. Violations; injunction [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-114; Laws, 1966, ch. 483, § 14; reenacted, 1980, ch. 495, § 13; reenacted, 1988, ch. 354, § 13; Laws, 2011, ch. 498, § 14; Laws, 2012, ch. 546, § 38; reenacted without change, Laws, 2014, ch. 465, § 14, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 14, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 14, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-27. Excluded activities [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-115; Laws, 1966, ch. 483, § 15; Laws, 1968, ch. 510, § 1; reenacted, Laws, 1980, ch. 495, § 14; reenacted, Laws, 1988, ch. 354, § 14; Laws, 1992, ch. 436, § 8; Laws, 1994, ch. 641, § 8; Laws, 2001, ch. 399, § 11; Laws, 2002, ch. 468, § 1; Laws, 2011, ch. 498, § 15; reenacted without change, Laws, 2014, ch. 465, § 15, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 15, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 15, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-29. Communications by client to psychologist privileged [Repealed effective July 1, 2022].

HISTORY: Codes, 1942, § 8877-116; Laws, 1966, ch. 483, § 16; reenacted, Laws, 1980, ch. 495, § 15; reenacted, Laws, 1988, ch. 354, § 15; Laws, 2011, ch. 498, § 16; reenacted without change, Laws, 2014, ch. 465, § 16, eff from and after July 1, 2014; reenacted without change, Laws, ch. 320, § 16, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 320, § 16, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-31-31. Repeal of Sections 73-31-1 through 73-31-29.

Sections 73-31-1 through 73-31-29 shall stand repealed on July 1, 2022.

HISTORY: Laws, 2011, ch. 498, § 17; Laws, 2014, ch. 465, § 17, eff from and after July 1, 2014; Laws, 2018, ch. 320, § 17, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment extended the date of the repealer for §§ 73-31-1 through 73-31-29 by substituting "July 1, 2022" for "July 1, 2018."

CHAPTER 34.

REAL ESTATE APPRAISERS

Real Estate Appraiser Licensing and Certification Act. 73-34-1
Mississippi Appraisal Management Company Registration Act. 73-34-101

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT

Sec.
73-34-3. Definitions.
73-34-5. Persons required to obtain real estate appraisal license; exceptions; "significant professional assistance" defined.
73-34-9. Powers and duties of commission and board; immunity of members of commission and board.
73-34-16. Qualifications to be trainee appraiser.
73-34-17. Qualifications to be licensed real estate appraiser.
73-34-21. Prerequisites to taking examinations for licensing as a licensed certified residential real estate appraiser or licensed certified general real estate appraiser.
73-34-33. Continuing education requirements for license renewal; requirements for inactive status license renewal; regulations generally.
73-34-45. Fees; Real Estate Appraisal License Fund.

§ 73-34-1. Short title.

Cross References — Limitations applicable to actions founded on real estate appraisal, see § 15-1-83.

§ 73-34-3. Definitions.

As used in this chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

(a) "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property performed in accordance with the Uniform Standards for Professional Appraisal Practice. An appraisal may be classified by the nature of the assignment into either a valuation assignment or an evaluation assignment. The term "valuation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time. The term "evaluation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that relates to the nature, quality or utility of identified real estate or identified real property.

(b) "Appraisal report" means any communication, written or oral, of an appraisal. For the purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions or opinions concerning identified real property is deemed to be an oral appraisal report.

(c) "Board" means the Mississippi Real Estate Appraiser Licensing and Certification Board that is established under the provisions of this chapter.

(d) "Certified appraisal report" means an appraisal report given or signed and certified as such by a state certified real estate appraiser. When a state certified real estate appraiser identifies an appraisal report as "certified," such state certified real estate appraiser must indicate which type of certification he holds. The certification of an appraisal report by a state certified real estate appraiser represents to the public that it meets the appraisal standards established under this chapter.

(e) "Commission" means the Mississippi Real Estate Commission as established under Section 73-35-5, Mississippi Code of 1972.

(f) "Licensed real estate appraiser" means a person who holds a current, valid appraisal license issued to him under the provisions of this chapter.

(g) "Real estate or real property" means an identified parcel or tract of land, with improvements, and includes easements, rights-of-way, undivided or future interest, or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights, or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(h) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(i) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

(j) "Real property" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

(k) "State certified real estate appraiser" means a person who holds a current, valid license as a real estate appraiser issued to him under the provisions of this chapter for certified real estate appraisers.

(*l*) "Appraisal management company" or "AMC" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen (15) certified or licensed appraisers in this state or twenty-five (25) or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets to:

(i) Recruit, select, and retain appraisers;

(ii) Contract with licensed and certified appraisers to perform appraisal assignments;

(iii) Manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(iv) Review and verify the work of appraisers.

(m) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that a quality control examination of an appraisal shall not be an appraisal review.

(n) "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial and objective.

(o) "Appraiser panel" means a network, list or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC.

(p) "Controlling person" means:

(i) An officer or director, or owner of greater than a ten percent (10%) interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state;

(ii) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(iii) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(q) "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(r) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of an appraiser.

(s) "Person" means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized.

(t) "Quality control examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical or other similar errors.

(u) "Real estate-related financial transaction" means any transaction involving:

(i) The sale, lease, purchase, auction, investment in or exchange of real property, including interests in property, or the financing thereof;

(ii) The refinancing of real property or interests in real property; and

(iii) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(v) "Uniform Standards of Professional Appraisal Practice" means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

(w) "USPAP" means the Uniform Standards of Professional Appraisal Practice.

(x) "Appraisal Foundation" means the Appraisal Foundation, as defined by 12 USC Section 3350, or its successor.

(y) "Appraisal Standards Board" means the Appraisal Standards Board of the Appraisal Foundation, or its successor.

(z) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its successor.

(aa) "Appraiser Qualifications Board" means the Appraiser Qualifications Board of the Appraisal Foundation, or its successor.

(bb) "Supervisory appraiser" means a supervisory appraiser as defined by the Appraiser Qualifications Board.

(cc) "Trainee appraiser" means a trainee appraiser as defined by the Appraiser Qualifications Board.

HISTORY: Laws, 1990, ch. 576, § 2; Laws, 1993, ch. 559, § 1; Laws, 2011, ch. 458, § 17, effective December 1, 2013; Laws, 2019, ch. 390, § 2, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment deleted former (*l*), which read: "'Timberland'" means forest land that is producing, or which is capable of producing, timber as a crop" and redesignated the remaining paragraphs accordingly; inserted "or 'AMC'" in (*l*); rewrote (o), which read: "'Appraiser' means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial and objective"; and added (x) through (cc).

§ 73-34-5. Persons required to obtain real estate appraisal license; exceptions; "significant professional assistance" defined.

(1) Except as otherwise provided for in this section, it shall be unlawful for anyone to engage in real estate appraisal activity in this state without first obtaining one (1) of the three (3) real estate appraiser licenses as provided in this chapter.

(a) Any person who is engaged in real estate appraisal activity on July 1, 1990, shall continue through June 30, 1991, to be subject to the provisions of the Real Estate Brokers License Law of 1954, but, thereafter, all real estate appraisal activity shall be governed by and licensed pursuant to the provisions of this chapter. However, if the United States Congress or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council extends the effective date for the use of certified or licensed appraisers in federally related transactions, then the above date of June 30, 1991, shall be extended to the date immediately preceding such extended effective date. In addition, if such Appraisal Subcommittee waives any requirement relating to certification or licensing of persons to perform appraisals in Mississippi, then such waiver shall also be effective in Mississippi under the Real Estate Appraiser Licensing and Certification Act and such requirement shall be waived by the Real Estate Appraiser Licensing and Certification Board until the waiver is terminated by the Appraisal Subcommittee. The Mississippi Real Estate Appraiser Licensing and Certification Board shall waive or modify statutory minimum requirements for hours of courses of study and provide by regulation for applicants who desire to do so to challenge the examinations, or one or some of them, by taking an examination on such courses without actually taking such courses, if such waivers or modifications are allowed or allowable under law or regulations adopted and promulgated by the United States Congress or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(b) The provisions of this chapter shall not apply to any director, officer or salaried employee of commercial banks, savings banks, credit unions, and savings and loan associations, when engaged in appraisal or evaluation activities for and on behalf of such financial institution unless there is a fee charged for the appraisal or evaluation; provided that a federal statute, rule or regulation does not require such appraisal or evaluation activities to be performed by a state licensed appraiser.

(c) This section shall not be construed to apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Examples of the type of assistance which are not considered "significant professional assistance" under this section include the following: (i) assistance in obtaining the data upon which the appraisal is based; (ii) assistance in the physical preparation of the appraisal report (such as taking photographs, preparing charts, maps or graphs, or typing or printing the report); and (iii) any other assistance that does not directly involve the exercise of judgment in arriving at the analysis, opinions or conclusions concerning real estate or real property set forth in the appraisal report.

(2) The provisions of this chapter shall not apply to:

(a) Any state, county, or municipal public officers or their salaried employees while performing their duties as such;

(b) The employees of private firms engaged pursuant to Section 27-35-165(2)(a) who perform work under the direction of the county tax assessor; or

(c) Private consultants hired pursuant to Section 27-35-165(2)(b) and all personnel employed or otherwise engaged by private consultants to appraise property who perform work under the direction of the county tax assessor.

(3) No license shall be issued under the provisions of this chapter to a corporation, partnership, firm or group.

(4) The provisions of this chapter shall not apply to individuals performing timber cruises, valuation on timberland real estate appraisals for nonfederally related transactions.

(5) The provisions of this chapter shall not apply to real estate licensees who are on active status and who perform a broker price opinion pursuant to Section 73-35-4.

HISTORY: Laws, 1990, ch. 576, § 3; Laws, 1991, ch. 475, § 1; Laws, 1993, ch. 559, § 2; Laws, 2003, ch. 468, § 5; Laws, 2011, ch. 464, § 1, eff from and after July 1, 2011; Laws, 2019, ch. 390, § 3, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted "three (3)" for "four (4)" in (1).

§ 73-34-9. Powers and duties of commission and board; immunity of members of commission and board.

(1) The commission shall have the following powers and duties:

(a) To receive applications for licensure as a real estate appraiser and applications for registration as an appraisal management company under this chapter; to establish appropriate administrative procedures for the processing of those applications; to issue licenses to qualified applicants under the provisions of this chapter; and to maintain a registry of the names and addresses of individuals who are currently licensed under this chapter.

(b) To administer licensing examinations in the places and at the times as may be required to carry out its responsibilities under this chapter.

(c) To implement recommendations made to the commission by the Real Estate Appraiser Licensing and Certification Board with respect to upgrading and improving the experience, education and examination requirements that are required for an appraiser license and each classification of licensed state certified real estate appraiser in this state.

(d) To implement recommendations made to the commission by the board with respect to upgrading and improving the continuing education requirements that are required for renewal of a license.

(e) To collect all licensing fees required or permitted by this chapter.

(f) To take appropriate action upon a decision and the related findings of fact made by the board if, after an administrative hearing, the board (i) determines that a licensed appraiser or a licensed state certified real estate appraiser under this chapter has violated the standards of appraisal practice or ethical rules established under Section 73-34-37, or has committed one or more of the acts that are prohibited by Section 73-34-35, and (ii) recommends that the license of the appraiser be suspended or revoked, that renewal be denied, or that some other disciplinary action be taken.

(g) To solicit bids and enter into contracts with one or more educational testing services or organizations approved by the board for the preparation of a bank of questions and answers for licensure examinations under this chapter.

(h) To promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.

(i) To adopt rules and regulations for the administration of this chapter that are not inconsistent with the provisions of this chapter or the Constitution and laws of Mississippi or of the United States.

(j) To employ an assistant to the Mississippi Real Estate Commission Administrator who shall keep a record of all proceedings, transactions, communications and official acts of the commission and board and perform any other duties as the commission and board may require.

(k) To employ an appropriate staff to investigate allegations that licensed appraisers or licensed state certified real estate appraisers under this chapter failed to comply with the terms or provisions of this chapter.

(l) To employ any other professional, clerical and technical assistance as may be necessary to properly administer the work of this chapter.

(2) The board shall have the following powers and duties:

(a) To be responsible for matters relating to real estate appraisal standards, real estate appraiser qualifications, testing standards, appraisal management companies and disciplinary functions.

(b) To hold meetings; to hold public hearings and administrative hearings; and to prepare examination specifications for licensed appraisers and licensed state certified appraisers.

(c) To enable the board to carry out its responsibilities under this chapter with respect to licensing and registering, the board shall have:

(i) The power to compel the attendance of witnesses;

(ii) The power to require a licensed appraiser or an applicant for licensure to produce books, appraisal documents, records and other papers;

(iii) The power to administer oaths; and

(iv) The power to take testimony and receive evidence concerning all matters within its jurisdiction.

These powers may be exercised directly by the board in such manner as the board shall determine.

(d) To establish appropriate administrative procedures for disciplinary proceedings conducted under the provisions of this chapter.

(e) To keep a record of its proceedings and issue an annual report of its activities.

(f) To further define by regulation, and with respect to each of the categories of licensed appraiser, the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this chapter and of the Appraiser Qualifications Board.

(g) To approve or disapprove applications for licensing or registration under this chapter.

(h) To suspend or revoke licenses or registrations under the disciplinary proceedings provided for in this chapter.

(i) To present an annual budget to the Mississippi Legislature for approval. A copy of the budget shall be given to the commission.

(j) To implement all requirements directed by the Appraiser Qualifications Board, Appraisal Subcommittee of the Federal Financial Institutions Examination Council or their designated agent.

(k) To make rules and regulations providing for an inactive license or registration status and for the reactivation thereof.

(*l*) To make rules and regulations necessary to implement its powers and duties under this chapter.

(m) To do all other things necessary to carry out the provisions of this chapter.

(n) To adopt rules consistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

(o) To provide for at least one (1) member of the board to represent the appraisal management company industry.

(p) To establish the standard for measuring residential properties up to four (4) family buildings as promulgated by the American National Standards Institute or as provided in the American Measurement Standard Manual. The board shall require appraisals required to use those standards to indicate on the appraisal or separately appended document which standard was used.

(q) To conduct surveys as necessary.

(3) The members of the commission and board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning, an appraiser licensed under this chapter, provided that the action is taken without malicious intent and in the reasonable belief that the action was taken in accordance with the powers and duties vested in the members of the commission and board under this chapter.

HISTORY: Laws, 1990, ch. 576, § 5; Laws, 1993, ch. 559, § 3; Laws, 2011, ch. 458, § 18; Laws, 2014, ch. 535, § 1, eff from and after July 1, 2014; Laws, 2019, ch. 390, § 4, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "and of the Appraiser Qualifications Board" in (f); and inserted "Appraiser Qualifications Board" in (j).

§ 73-34-16. Qualifications to be trainee appraiser.

To qualify as a trainee appraiser, an applicant must have successfully completed the number and type of qualifying education hours and other qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board.

HISTORY: Laws, 2019, ch. 390, § 1, eff from and after July 1, 2019.

§ 73-34-17. Qualifications to be licensed real estate appraiser.

To qualify to be a licensed real estate appraiser, an applicant must:

(a) Successfully complete the number and type of classroom hours or other educational qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board.

(b) Provide evidence satisfactory to the board that the applicant has completed the number of hours of experience in performing appraisals over the specified number of calendar years that meet or exceed the number of hours of experience over the specified number of calendar years as required by the Appraiser Qualifications Board.

(c) Pass any examination administered by the commission or its designated agent that is consistent with other requirements of this chapter and approved by the Appraiser Qualifications Board when such approval is required.

(d) Be trustworthy and competent to transact the business of real estate appraising.

(e) Comply with such other requirements as may be prescribed by the board.

The courses of study referred to in paragraph (a) above must (i) be conducted by an accredited university, college or junior college; (ii) be conducted by an approved appraisal society, institute or association; or (iii) be conducted by such other school as may be approved by the board; or (iv) consist of courses relating to appraisal education that were approved by the Mississippi Real Estate Commission prior to July 1, 1990.

HISTORY: Laws, 1990, ch. 576, § 9; Laws, 1993, ch. 559, § 6, eff from and after passage (approved April 9, 1993); Laws, 2019, ch. 390, § 5, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment rewrote (a), which read: "Successfully complete not less than seventy-five (75) classroom hours in courses of study approved by the board. Those seventy-five (75) classroom hours shall include coverage of the Uniform Standards of Professional Appraisal Practice and not less than thirty (30) classroom hours of study relating to the basic principles of land economics and/or the basic principles of real estate appraising"; added (b), and redesignated the remaining paragraphs accordingly; and rewrote (c), which read: "Pass an exam administered by the commission that is based upon required appraisal study and is designed to test an individual's knowledge of the basic principles of land economics and the basic principles of real estate appraising."

§ 73-34-21. Prerequisites to taking examinations for licensing as a licensed certified residential real estate appraiser or licensed certified general real estate appraiser.

As a prerequisite to taking the examination for licensing as a licensed certified residential real estate appraiser or licensed certified general real estate appraiser, an applicant shall present acceptable evidence that such applicant has successfully completed:

(a) The number and type of classroom hours or other educational qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board; and

(b) The number of hours of experience in performing appraisals over the specified number of calendar years that meet or exceed the number of hours of experience over the specified number of calendar years as required by the Appraiser Qualifications Board.

The board may adopt rules and regulations as may be necessary to implement the requirements established by the Appraiser Qualifications Board.

HISTORY: Laws, 1990, ch. 576, § 11; Laws, 1993, ch. 559, § 8; Laws, 2014, ch. 363, § 2, eff from and after July 1, 2014; Laws, 2019, ch. 390, § 6, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment rewrote the section to revise the prerequisites to taking the examination for licensing as a licensed certified residential real estate appraiser or licensed certified general real estate appraiser by deleting references to requisite number of semester credit hours, level of education and number of hours of qualifying experience applicants had to complete.

§ 73-34-33. Continuing education requirements for license renewal; requirements for inactive status license renewal; regulations generally.

(1) As a prerequisite to renewal of license, an active status licensed appraiser shall present evidence satisfactory to the board that such appraiser has met the continuing education requirements of this section. The basic continuing education requirement for renewal of a license shall be completed by the applicant, during the immediately preceding term of licensure, of not less than twenty-one (21) class hours of instruction in courses or seminars which have received the approval of the board in addition to a seven (7) hour USPAP update course, for a total of twenty-eight (28) hours. Inactive status licensees are not required to meet the continuing education requirements specified in this section; however, such inactive licensees, before activating their license to active status, shall cumulatively meet the requirements missed during the period their license was inactive.

(2) In lieu of meeting the requirements set forth above, an applicant for renewal may satisfy all or part of the requirements by presenting evidence of the following:

(a) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board; or

(b) Participation, other than as a student, in educational processes and programs approved by the board which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to, teaching, program development and preparation of textbooks, monographs, articles and other instructional materials.

(3) The board shall develop regulations for the implementation of the provisions of this section to ensure that an individual who renews his or her license as a licensed appraiser or as a licensed certified real estate appraiser

under this chapter has a working knowledge of current real estate appraisal theories, practices and techniques that will enable him or her to provide competent real estate appraisal services to the members of the public with whom he or she deals in a professional relationship under the authority of his or her licensure. The regulations developed by the board shall prescribe the following:

(a) Policies and procedures to be followed in obtaining board approval of courses of instruction and seminars;

(b) Standards, policies and procedures to be used by the board in evaluating an applicant's claims of equivalency; and

(c) Standards, monitoring methods, and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to board approval of courses and seminars for credit.

In developing and proposing regulations under this section, the board shall give consideration to courses of instruction, seminars and other appraisal education programs developed by or under the authority of organizations or associations of professional real estate appraisers which are utilized by such organizations or associations for the purpose of awarding real estate appraisal designations or indicating compliance with the continuing education requirements of such organizations or associations.

(4) No amendment or repeal of a regulation adopted by the board pursuant to this section shall operate to deprive a licensed appraiser or licensed certified real estate appraiser of credit toward renewal of such appraiser's license for any course of instruction or seminar that had been completed by such individual prior to the amendment or repeal of the regulation.

HISTORY: Laws, 1990, ch. 576, § 17; Laws, 1993, ch. 559, § 10, eff from and after passage (approved April 9, 1993); Laws, 2019, ch. 390, § 7, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment rewrote the second sentence of (1), which read: "The basic continuing education requirement for renewal of a license shall be completed by the applicant, during the immediately preceding term of licensure, of not less than twenty (20) classroom hours of instruction in courses or seminars which have received the approval of the board"; and inserted "or her" and "or she" throughout (3).

§ 73-34-45. Fees; Real Estate Appraisal License Fund.

(1) The commission shall charge and collect appropriate fees for its services under this chapter. The fees charged shall not exceed the amounts indicated below and shall be set by the board.

Application and examination	$225.00
Application only	$175.00
Initial and renewal license	$325.00
Delinquent renewal penalty	100% of renewal fee

For each change of address	$ 25.00
For each duplicate license	$ 25.00
To change status as a licensee between active/inactive	$ 25.00
For each bad check received by the commission	$ 25.00

(2)(a) The board shall establish the fee to be paid by each appraisal management company making application for registration under this chapter that is sufficient for the administration regulation and enforcement of the provisions of the Mississippi Appraisal Management Company Registration Act (Section 73-34-101 et seq.), but in no case shall the fee for initial registration be more than One Thousand Dollars ($1,000.00). However, beginning July 1, 2015, the board may increase the registration fee to an amount not to exceed One Thousand Five Hundred Dollars ($1,500.00) if the board finds the increase necessary for the regulation and enforcement of this chapter.

(b) The board may establish a similar fee, not to exceed One Thousand Dollars ($1,000.00), for the renewal of any registration, and a delinquent renewal penalty not to exceed one hundred percent (100%) of the renewal fee. However, beginning July 1, 2015, the board may increase the renewal fee to an amount not to exceed One Thousand Five Hundred Dollars ($1,500.00) if the board finds the increase necessary for the regulation and enforcement of this chapter, and a delinquent renewal penalty not to exceed one hundred percent (100%) of the renewal fee.

(3) The board by rule shall establish and collect from each appraisal management company (AMC) registered under this chapter the national registry fee required by the Appraisal Subcommittee for each person who is on the appraisal panel of the company and licensed or certified as an appraiser in this state.

(a) Unless exempted under provisions of this chapter or federal law/regulation, the board shall collect from each appraisal management company operating in this state:

(i) The national registry fee required by the Appraisal Subcommittee;

(ii) Information necessary for the board to determine the national registry fee as required by the Appraisal Subcommittee;

(iii) A fee in an amount that is sufficient for the administration of this subsection as established by board rule; and

(iv) Any other information required by state or federal law.

(b) The board shall deposit the national registry fees collected under this section into an account maintained only for purposes of collecting and disbursing the national registry fees collected pursuant to this subsection.

(c) The national registry fees collected under this section shall be transmitted to the Appraisal Subcommittee regularly as required by the Appraisal Subcommittee and federal law.

(d) The board may adopt such rules and regulations necessary to implement the requirements of this subsection.

(4) The board may charge additional fees for its services which the board

deems appropriate to carry out its intent and purpose. These additional fees shall not exceed the cost of rendering the service.

(5) Except for those fees collected by the board as required for disbursement to national registries, all fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the “Real Estate Appraisal License Fund,” hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to the fund for the use of the board in carrying out the provisions of this chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. The commission shall submit a monthly statement to the board detailing any expenses which it bears as a share in the expense of administering this chapter, for which expenses it shall be reimbursed in the amount approved by the board. The commission shall prepare an annual statement of income and expenses related to its appraisal-related administrative function.

HISTORY: Laws, 1990, ch. 576, § 23; Laws, 2011, ch. 458, § 26; Laws, 2012, ch. 531, § 1; Laws, 2014, ch. 400, § 2, eff from and after July 1, 2014; Laws, 2019, ch. 390, § 8, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted “licensee between active/inactive” for “licensee from active to inactive” in (1); added (3) and redesignated the remaining paragraphs accordingly; and added the exception at the beginning of (5).

MISSISSIPPI APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

Sec.

73-34-103. Registration required; application [Repealed effective July 1, 2022].

§ 73-34-103. Registration required; application [Repealed effective July 1, 2022].

(1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company in this state or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the Mississippi Real Estate Appraiser Licensing and Certification Board under the provisions of this chapter.

(a) An applicant for registration as an appraisal management company in this state shall submit to the Mississippi Real Estate Commission an application on a form or forms prescribed by the board accompanied by an original or certified copy of a surety bond payable to the State of Mississippi in the amount of Twenty Thousand Dollars ($20,000.00) for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the appraisal management company’s breach of contract or of any obligation arising therefrom or any violation of law.

(b) In the event a registration process is unavailable on December 1, 2013, an appraisal management company already conducting business in this state may continue to conduct business in accordance with Sections 73-34-101 through 73-34-131 until one hundred twenty (120) days after a registration process becomes available.

(2) An application for the registration required by subsection (1) of this section shall, at a minimum, include:

(a) The name of the person seeking registration and the fictitious name or names under which he does business in any state;

(b) The business address of the entity seeking registration;

(c) The phone contact information of the entity seeking registration;

(d) If the person is not a corporation that is domiciled in this state, the name and contact information for the person's agent for service of process in this state;

(e) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company;

(f) The name, address, and contact information for one (1) controlling person designated as the main contact for all communication between the appraisal management company and the commission;

(g) A certification that the person has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under the Real Estate Appraiser Licensing and Certification Act if a license or certification is required to perform appraisals;

(h) A certification that the person requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), including the requirements for geographic and product competence;

(i) A certification that the person has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;

(j) A certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;

(k) A certification that the person maintains a detailed record of each service request that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company;

(*l*) An irrevocable Consent to Service of Process required under Section 73-34-107;

(m) Any other information required by the board which is reasonably necessary to implement Sections 73-34-101 through 73-34-131.

(3) An application for the renewal of a registration shall include substantially similar information required for the initial registration as noted in subsection (2), as determined by the board.

(4) A registration granted by the commission under the provisions of Sections 73-34-101 through 73-34-131 shall be valid for one (1) year from the date on which it is issued.

(5) The provisions of this section shall stand repealed on July 1, 2022.

HISTORY: Laws, 2011, ch. 458, § 2; Laws, 2012, ch. 531, § 2; Laws, 2016, ch. 347, § 1, eff from and after July 1, 2016; reenacted and amended, Laws, 2019, ch. 387, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment reenacted and amended the section by extending the date of the repealer for the section by substituting “July 1, 2022” for “July 1, 2019” in (5).

§ 73-34-117. Annual certifications to commission.

(1) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence.

(2) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, including the requirement that fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

(3) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place requiring payment to an independent contract appraiser for the completion of an appraisal service within thirty (30) days after the appraiser provides the completed appraisal report to the appraisal management company, except in cases involving a bona fide breach of contract, substandard performance of services, or alternate payment terms agreed upon by the appraiser and the appraisal management company.

(4) An appraisal management company shall not prohibit an appraiser from reporting the fee paid to the appraiser in the body of the appraisal report, however an appraisal management company may require an appraiser to present any such disclosure in a specified format and location.

HISTORY: Laws, 2011, ch. 458, § 9, effective December 1, 2013; Laws, 2019, ch. 380, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted "thirty (30) days" for "sixty (60) days" in (3).

CHAPTER 35.

REAL ESTATE BROKERS

In General. 73-35-1

IN GENERAL

Sec.

73-35-1. Citation of chapter; license requirement.

73-35-7. Qualifications for license.

73-35-9. Application for license.

73-35-18. License renewal; continuing education requirements; exemptions; email address required; rules and regulations.

73-35-35. Commission to adopt rules and regulations; notice of rule or regulation change or adoption.

§ 73-35-1. Citation of chapter; license requirement.

Cross References — Limitations applicable to actions founded on licensed real estate activities, see § 15-1-85.

§ 73-35-7. Qualifications for license.

Licenses shall be granted only to persons who present, and to corporations, partnerships, companies or associations whose officers, associates or partners present satisfactory proof to the commission that they are trustworthy and competent to transact the business of a real estate broker or real estate salesperson in such manner as to safeguard the interests of the public. Except as otherwise provided in this section, every person who applies for a resident license as a real estate broker: (a) shall be age twenty-one (21) years or over, and have his legal domicile in the State of Mississippi at the time he applies; (b) shall be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road and bridge privilege tax laws thereof; (c) shall not be an elector in any other state; (d) shall have held a license as an active real estate salesperson for twelve (12) months prior to making application for the broker's examination hereafter specified; (e) shall have successfully completed a minimum of one hundred twenty (120) hours of courses in real estate as hereafter specified; (f) shall have successfully completed the real estate broker's examination as hereafter specified; and (g) shall have successfully been cleared for licensure by the commission's background investigation as provided in Section 73-35-10; and (h) sign a form under penalty of perjury stating that the applicant will not hire any real estate salespersons for thirty-six (36) months from the date of approval of his or her active real estate salesperson's license. The real estate commission shall create a standard form to comply with the requirements of this section. Upon completion of such restriction provided in this paragraph (h) of this section, the real estate broker is authorized to employ any number of real estate salespersons.

The provisions of paragraph (h) shall not apply to an applicant who seeks to hire a real estate salesperson in less than thirty-six (36) months from the date of approval of his or her active real estate salesperson's license. Any person who desires to hire a real estate salesperson in less than thirty-six (36) months from the date of approval of his or her active real estate salesperson's license shall: (a) be age twenty-one (21) years or over, and have his or her legal domicile in the State of Mississippi at the time he or she applies; (b) be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road and bridge privilege tax laws thereof; (c) not be an elector in any other state; (d) have held a license as an active real estate salesperson for thirty-six (36) months prior to making application for the broker's examination hereafter specified; (e) have successfully completed a minimum of one hundred twenty (120) hours of courses in real estate as hereafter specified; (f) have successfully completed the real estate broker's examination as hereafter specified; and (g) have successfully been cleared for licensure by the commission's background investigation as provided in Section 73-35-10.

An applicant who has not held an active real estate salesperson's license for a period of at least thirty-six (36) months prior to submitting an application shall have successfully completed a minimum of one hundred fifty (150) classroom hours in real estate courses, which courses are acceptable for credit toward a degree at a college or university as approved by the Southern Association of Colleges and Schools.

Every applicant for a resident license as a real estate salesperson shall be age eighteen (18) years or over, shall be a bona fide resident of the State of Mississippi prior to filing his application, shall have successfully completed a minimum of sixty (60) hours in courses in real estate as hereafter specified, and shall have successfully completed the real estate salesperson's examination as hereafter specified.

The residency requirements set forth in this section shall not apply to those licensees of other states who qualify and obtain nonresident licenses in this state.

The commission is authorized to exempt from such prelicensing educational requirements, in whole or in part, a real estate licensee of another state who desires to obtain a license under this chapter, provided that the prelicensing educational requirements in the other state are determined by the commission to be equivalent to prelicensing educational requirements in this state and provided that such state extends this same privilege or exemption to Mississippi real estate licensees. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

HISTORY: Codes, 1942, § 8920-04; Laws, 1954, ch. 318, § 4; Laws, 1960, ch. 395, § 1; Laws, 1974, ch. 485, § 2; Laws, 1976, ch. 445, § 1; reenacted and amended, Laws, 1980, ch. 499, § 4; Laws, 1983, ch. 476, § 1; Laws, 1988, ch. 477, § 4; Laws, 1991, ch. 355, § 3; Laws, 1992, ch. 533, § 2; Laws, 1994, ch. 520, § 2; Laws, 2002, ch. 512, § 4; Laws, 2013, ch. 350, § 33; Laws, 2016, ch. 472, § 2, eff from and after July 1, 2016; Laws, 2020, ch. 355, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the first paragraph, added the exception at the beginning of the second sentence, in (d), deleted "immediately" following "twelve (12) months," and added (h); added the second paragraph; and in the third paragraph, substituted "thirty-six (36) months prior" for "twelve (12) months immediately prior."

§ 73-35-9. Application for license.

(1) Every applicant for a real estate broker's license shall apply therefor in writing upon blanks prepared by the commission and shall provide such data and information as the commission may require.

(2) Such application shall be accompanied by the recommendation of at least three (3) citizens who have been property owners for at least three (3) years, who have known the applicant for three (3) years, and who are not related to the applicant, certifying that the applicant bears a good reputation for honesty and trustworthiness and recommending that a license be granted to the applicant.

(3) Every applicant for a salesperson's license shall apply therefor in writing upon blanks prepared by the commission and shall provide such data and information as the commission may require.

(4) Each application for license shall also be accompanied by two (2) photographs of the applicant in such form as the commission may prescribe.

(5) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(6) Beginning on July 1, 2019, each application for a license made under this section must include a current email address for the applicant.

HISTORY: Codes, 1942, § 8920-05; Laws, 1954, ch. 318, § 5; reenacted, Laws, 1980, ch. 499, § 5; Laws, 1988, ch. 477, § 5; Laws, 1997, ch. 588, § 59; Laws, 2008, ch. 399, § 1, eff from and after passage (approved Mar. 31, 2008); Laws, 2019, ch. 339, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment deleted "Mississippi Code of 1972" from the end of (5); and added (6).

§ 73-35-18. License renewal; continuing education requirements; exemptions; email address required; rules and regulations.

(1) Each individual applicant for renewal of a license issued by the Mississippi Real Estate Commission shall, on or before the expiration date of his license, or at a time directed by the commission, submit proof of completion of not less than sixteen (16) clock hours of approved course work to the commission, in addition to any other requirements for renewal. The sixteen (16) clock hours' course work requirement shall apply to each two-year license renewal, and hours in excess thereof shall not be cumulated or credited for the purposes of subsequent license renewals except as provided in this subsection (1). The commission shall develop standards for approval of courses and shall require certification of such course work of the applicant. The commission may

determine any required subject matter within the mandated sixteen (16) hours; provided that the required subjects shall not exceed eight (8) hours of the total sixteen (16) hours. Approved continuing education hours earned in the final three (3) months of a licensee's renewal period, if in excess of the required minimum sixteen (16) hours, may be carried over and credited to the next renewal period. However, no more than six (6) hours may be carried over in this manner. Any member of the Mississippi Legislature who has a real estate license shall be credited with eight (8) hours of credit for the attendance of each year of a legislative session. No person may receive continuing education credit for prelicense education courses taken, except as follows: a licensee whose license is on inactive status and whose continuing education credits are at least thirty (30) hours in arrears may, at the discretion of the commission, receive continuing education credit for retaking prelicense coursework, provided the entire prelicense course is retaken.

(2) This section shall apply to renewals of licenses which expire on and after July 1, 1994; however, an applicant for first renewal who has been licensed for not more than one (1) year shall not be required to comply with this section for the first renewal of the applicant's license. The provisions of this section shall not apply to persons who have held a broker's or salesperson's license in this state for at least twenty-five (25) years and who are older than seventy (70) years of age. Inactive licensees are not required to meet the real estate continuing education requirements specified in this section; however, such inactive licensees, before activating their license to active status, must cumulatively meet requirements missed during the period their license was inactive.

(3) A renewal of a license issued by the commission which expires after June 30, 2019, must include a current email address for the applicant. Any email address previously provided by an applicant to the commission which is no longer valid or the primary email address of the applicant must be updated when a renewal application is submitted under this section.

(4) The commission shall promulgate rules and regulations as necessary to accomplish the purposes of this section in accordance with the Mississippi Administrative Procedures Law.

(5) [Repealed]

HISTORY: Laws, 1985, ch. 314; Laws, 1988, ch. 477, § 10; Laws, 1989, ch. 357, § 1; Laws, 1992, ch. 533, § 6; Laws, 1994, ch. 520, § 6; Laws, 1999, ch. 588, § 2; Laws, 2002, ch. 512, § 15, eff from and after July 1, 2002; Laws, 2019, ch. 339, § 2, eff from and after July 1, 2019.

Editor's Notes — Subsection (4), (now (5)), which provided for reinstatement of an expired license under certain circumstances, was repealed by its own terms, effective December 31, 1994.

Amendment Notes — The 2019 amendment added (3) and redesignated former (3) and (4) as (4) and (5).

§ 73-35-21. Grounds for refusing to issue or suspending or revoking license; hearing.

JUDICIAL DECISIONS

6. Bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing.

It was error to sanction a real estate broker for improper dealing because the broker's expressions of concerns about a certain appraiser and inquiry about the broker's client's options if the appraiser were selected were not statutory violations, particularly as the broker said the broker did not object to any other qualified appraiser. McIntosh v. Miss. Real Estate Comm'n, 233 So. 3d 214, 2017 Miss. LEXIS 205 (Miss. 2017).

§ 73-35-33. License required to sue for compensation; suit by salesperson in own name.

JUDICIAL DECISIONS

1. In general.

Although appellant argued that the statute allowed him to file suit against a broker who had not paid him, because there was no evidence that appellee intended or did assign any broker's commissions to appellant, the court left open for another day whether Mississippi law allowed the assignment of such commissions. Pierce Realty, Inc. v. Pierce, — So. 3d —, 2020 Miss. App. LEXIS 352 (Miss. Ct. App. June 2, 2020).

§ 73-35-35. Commission to adopt rules and regulations; notice of rule or regulation change or adoption.

(1) The commission may act by a majority of the members thereof, and authority is hereby given to the commission to adopt, fix and establish all rules and regulations in its opinion necessary for the conduct of its business, the holdings of hearings before it, and otherwise generally for the enforcement and administration of the provisions of this chapter.

Further, the commission is empowered with the authority to adopt such rules and regulations as it deems appropriate to regulate the sale of timesharing and condominium properties within the State of Mississippi and the sale of timesharing and condominium properties in other states to residents of Mississippi.

(2) Beginning on July 1, 2019, the commission shall provide notice by email to each real estate broker and real estate salesperson who has provided an email address to the commission under Section 73-35-9 or 73-35-18 of each proposed rule or regulation change or adoption. The notice required under this subsection must be given on no less than three (3) separate occasions during the notice period prescribed under the Mississippi Administrative Procedures Law (Chapter 43, Title 25, Mississippi Code of 1972).

HISTORY: Codes, 1942, § 8920-18; Laws, 1954, ch. 318, § 18; reenacted, Laws, 1980, ch. 499, § 18; Laws, 1983, ch. 476, § 4, eff from and after July 1, 1983; Laws, 2019, ch. 339, § 3, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment designated the former first two paragraphs (1); and added (2).

JUDICIAL DECISIONS

1. No rules prohibiting broker's conduct.

It was error to sanction a real estate broker for refusing to cooperate with an appraiser to whom the broker objected because no rules or regulations adopted by the Mississippi Real Estate Commission clearly prohibited this conduct. McIntosh v. Miss. Real Estate Comm'n, 233 So. 3d 214, 2017 Miss. LEXIS 205 (Miss. 2017).

CHAPTER 38.

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

§ 73-38-31. Fees.

HISTORY: Laws, 1975, ch. 495, § 16; Laws, 1980, ch. 546, § 16; Laws, 1986, ch. 371, § 14; Laws, 1988, ch. 411, § 16; Laws, 1997, ch. 518, § 6; reenacted without change, Laws, 2002, ch. 461, § 16; brought forward without change, Laws, 2005, ch. 455, § 16; Laws, 2016, ch. 510, § 51, eff from and after July 1, 2016; Laws, 2020, ch. 473, § 51, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 51. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 39.

VETERINARIANS

Mississippi Veterinary Practice Act. 73-39-51

MISSISSIPPI VETERINARY PRACTICE ACT

Sec.
73-39-77. Discipline of licensees [Paragraph (1)(t) repealed effective July 1, 2025].

§ 73-39-77. Discipline of licensees [Paragraph (1)(t) repealed effective July 1, 2025].

(1) Upon a written complaint sworn to by any person, the board, in its sole discretion, may, after a hearing, revoke, suspend or limit for a certain time a license, impose an administrative fine not to exceed One Thousand Dollars ($1,000.00) for each separate offense, or otherwise discipline any licensed veterinarian for any of the following reasons:

(a) The employment of fraud, misrepresentation or deception in obtaining a license.

(b) The inability to practice veterinary medicine with reasonable skill and safety because of a physical or mental disability, including deterioration of mental capacity, loss of motor skills or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.

(c) The use of advertising or solicitation that is false or misleading.

(d) Conviction of the following in any federal court or in the courts of this state or any other jurisdiction, regardless of whether the sentence is deferred:

(i) Any felony;

(ii) Any crime involving cruelty, abuse or neglect of animals, including bestiality;

(iii) Any crime of moral turpitude;

(iv) Any crime involving unlawful sexual contact, child abuse, the use or threatened use of a weapon, the infliction of injury, indecent exposure, perjury, false reporting, criminal impersonation, forgery and any other crime involving a lack of truthfulness, veracity or honesty, intimidation of a victim or witness, larceny, or alcohol or drugs.

For the purposes of this paragraph, a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction.

(e) Incompetence, gross negligence or other malpractice in the practice of veterinary medicine.

(f) Aiding the unlawful practice of veterinary medicine.

(g) Fraud or dishonesty in the application or reporting of any test for disease in animals.

(h) Failure to report, as required by law, or making false or misleading report of, any contagious or infectious disease.

(i) Failure to keep accurate patient records.

(j) Dishonesty or gross negligence in the performance of food safety inspections or in the issuance of any health or inspection certificates.

(k) Failure to keep veterinary premises and equipment, including practice vehicles, in a clean and sanitary condition.

(*l*) Failure to permit the board or its agents to enter and inspect veterinary premises and equipment, including practice vehicles, as set by rules promulgated by the board.

(m) Revocation, suspension or limitation of a license to practice veterinary medicine by another state, territory or district of the United States.

(n) Loss or suspension of accreditation by any federal or state agency.

(o) Unprofessional conduct as defined in regulations adopted by the board.

(p) The dispensing, distribution, prescription or administration of any veterinary prescription drug, or the extralabel use of any drug in the absence of a veterinarian-client-patient relationship.

(q) Violations of state or federal drug laws.

(r) Violations of any order of the board.

(s) Violations of this chapter or of the rules promulgated under this chapter.

(t) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) A certified copy of any judgment of conviction or finding of guilt by a court of competent jurisdiction or by a governmental agency, or agency authorized to issue licenses or permits, including the United States Department of Agriculture, Animal and Plant Health Inspection Service, the Mississippi Board of Animal Health and the Mississippi Board of Health, of a veterinarian or veterinary technician of any matters listed in this section shall be admissible in evidence in any hearing held by the board to discipline such veterinarian or technician and shall constitute prima facie evidence of the commission of any such act.

HISTORY: Laws, 2005, ch. 421, § 14; reenacted without change, Laws, 2008, ch. 447, § 14; Laws, 2012, ch. 409, § 15; Laws, 2016, ch. 419, § 15, eff from and after July 1, 2016; Laws, 2020, ch. 393, § 14, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, extended the date of the repealer for paragraph (1)(t), by substituting "July 1, 2025" for "July 1, 2020."

CHAPTER 43.

STATE BOARD OF MEDICAL LICENSURE

§ 73-43-1. State board of medical licensure established.

OPINIONS OF THE ATTORNEY GENERAL

The board of medical licensure may adopt regulations which set professional standards for physicians performing utilization review activities and provide for disciplinary action for physicians found to be in violation thereof. Morgan, Aug. 18, 2006, A.G. Op. 06-0324.

CHAPTER 47.

OCCUPATIONAL BOARD COMPLIANCE ACT OF 2017

Sec.
73-47-5. Definitions.
73-47-9. Occupational Licensing Review Commission created; composition; responsibilities; submission of proposed occupational regulations to commission.

§ 73-47-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Active market participant" means an individual who is:

(i) Licensed by an occupational licensing board;

(ii) Provides any service subject to the regulatory authority of an occupational licensing board; or

(iii) Is subject to the jurisdiction of an occupational licensing board;

(b) "Active supervision" means the Occupational Licensing Review Commission:

(i) Shall review the substance of an occupational regulation proposed by any occupational licensing board and approve, disapprove, disapprove with suggested amendment, or allow the occupational licensing board to withdraw for revision such occupational regulation to ensure compliance with state policy; or

(ii) May review, upon its own motion, the substance of an existing occupational regulation promulgated by an occupational licensing board and, if the commission determines the regulation does not comply with the provisions of this chapter, it may, in its discretion: 1. declare that the noncomplying regulation will become invalid sixty (60) days after the date of review, at which time the regulation will cease to have any force of law; or 2. allow the occupational licensing board opportunity to amend the noncomplying regulation to conform with state policy;

(c) "Commission" means the Occupational Licensing Review Commission created in Section 73-47-9;

(d) "State policy" means the policy provided in Section 73-47-7;

(e) "Occupational licensing board" means any state executive branch board, commission, department or other agency that is:

(i) Established for the primary purpose of regulating the entry of persons into, or regulating the conduct of persons within, a particular profession or occupation;

(ii) Authorized to issue and revoke occupational licenses; and

(iii) Controlled by active market participants;

(f) "Occupational regulation" means a rule, regulation, restraint, practice or policy that allows an individual to use an occupational title or work in a lawful occupation. "Occupational regulation" includes registrations, certifications and occupational licenses, and does not include a business license, facility license, building permit or zoning and land use regulation except to the extent those state laws regulate an individual's personal qualifications to perform a lawful occupation;

(g) "Personal qualifications" means the criteria related to an individual's personal background and characteristics, including completion of an approved educational program, satisfactory performance on an examination, work experience, other evidence of attainment of requisite skills or knowledge, moral standing, criminal history and completion of continuing education;

(h) "Registration" means a requirement to give notice to the government that may include the individual's name and address, the individual's agent for service of process, the location of the activity to be performed, and a description of the service the individual provides. "Registration" does not include personal qualifications, but may require a bond or insurance. Upon the government's receipt of notice, the individual may use "registered" as a designated title. A nonregistered individual may not perform the occupation for compensation or use "registered" as a designated title. Registration is not transferable;

(i) "Certifications" mean a voluntary program in which a private organization or the state grants nontransferable recognition to an individual who meets personal qualifications established by the private organization or the state. Upon approval, the individual may use "certified" as a designated title. A noncertified individual may also perform the occupation for compensation but may not use the title "certified";

(j) "Occupational license" means a nontransferable authorization in law for an individual to exclusively perform a lawful occupation for compensation based on meeting certain personal qualifications. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform the occupation for compensation; and

(k) "Least restrictive regulation" means, from least to most restrictive:

(i) Market competition;

(ii) Third-party or consumer-created ratings and reviews;

(iii) Private certification;

(iv) Specific private civil cause of action to remedy consumer harm under a deceptive trade practice act;

(v) Regulation of the process of providing the specific goods or services to consumers;

(vi) Inspection;

(vii) Bonding or insurance;

(viii) Registration;

(ix) Government certification; and

(x) Occupational license.

HISTORY: Laws, 2017, ch. 415, § 3, eff from and after July 1, 2017; Laws, 2020, ch. 399, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (b), deleted "shall" at the end of the introductory paragraph, in (i), added "Shall," deleted "(ii)" preceding "approve, disapprove" and added "or" at the end," and added (ii); in (j), added "and" at the end; and made minor stylistic changes.

§ 73-47-9. Occupational Licensing Review Commission created; composition; responsibilities; submission of proposed occupational regulations to commission.

(1) There is hereby created the Occupational Licensing Review Commission which shall be composed of the Governor, the Secretary of State and the Attorney General, or his or her respective designee. The Governor shall be the Chairman of the commission and the Secretary of State shall be the Secretary.

The commission shall meet quarterly and at such other times as meetings may be called by the chair. A majority of the members shall constitute a quorum at any meeting. Any final action taken by the commission shall require the affirmative vote of a majority of the members. The Office of the Governor shall provide such support of the commission necessary to accomplish the purposes of this chapter, including, but not limited to, research and clerical assistance. Any department, division, board, bureau, commission or agency of the state shall provide, at the request of the chair of the commission, such assistance and data as will enable the commission to carry out its duties.

(2) The commission shall be responsible for the active supervision of state executive branch occupational licensing boards controlled by active market participants to ensure compliance with state policy in the adoption of an occupational regulation promulgated by an occupational licensing board, to include existing occupational regulations promulgated by an occupational licensing board. The active supervision required under this chapter shall not extend to individual disciplinary actions taken or imposed by an occupational licensing board as to any active market participant subject to the jurisdiction of the occupational licensing board.

(3) An occupational licensing board must submit any proposed occupational regulation to the commission before the occupational licensing board may file the occupational regulation in the Office of the Secretary of State if the occupational regulation is required to be filed in the Office of the Secretary of State by Chapter 43, Title 25, Mississippi Code of 1972, (Mississippi Administrative Procedures Law), or before the occupational regulation becomes effective if filing is not required.

(4) The commission shall issue resolutions necessary to effectuate the provisions of this chapter, including the process, procedures and timelines that will govern any submission filed in accordance with the chapter. Nothing in this chapter shall be interpreted to subject the commission to any of the administrative procedures of Chapter 43, Title 25, Mississippi Code of 1972, (Mississippi Administrative Procedures Law).

HISTORY: Laws, 2017, ch. 415, § 5, eff from and after July 1, 2017; Laws, 2020, ch. 399, § 2, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an internal reference error in the last sentence of (2) by substituting "this chapter" for "this act." The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The 2020 amendment, in (2), added "to include existing…occupational licensing board" at the end of the first sentence.

CHAPTER 50.

LICENSING, CERTIFYING OR REGISTERING MILITARY-TRAINED INDIVIDUALS OR SPOUSES TO LAWFULLY PRACTICE OCCUPATION

Sec.
73-50-1. Military Family Freedom Act; issuance of license, by occupational licensing board to a military-applicant or spouse or dependent to lawfully practice occupation in Mississippi under certain circumstances; temporary practice permit; appeal of decisions of occupational licensing board; preemption of local ordinances regulating licenses.

§ 73-50-1. Military Family Freedom Act; issuance of license, by occupational licensing board to a military-applicant or spouse or dependent to lawfully practice occupation in Mississippi under certain circumstances; temporary practice permit; appeal of decisions of occupational licensing board; preemption of local ordinances regulating licenses.

(1) This section shall be known as the "Military Family Freedom Act."

(2) As used in this section, the term:

(a) "License" means any license (other than a privilege license), certificate, registration or other evidence of qualification that an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) "Occupational licensing board" means any state board, commission, department or other agency in Mississippi that is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses. For the purposes of this section, the State Department of Education shall be considered an occupational licensing board when issuing teacher licenses under Section 37-3-2.

(c) "Military" means the Armed Forces or Reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

(3) Notwithstanding any other provision of law, an occupational licensing board shall issue a license to an applicant who is a member of the military, or an applicant who is married to or is a dependent of a member of the military, if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

(a) The applicant has been awarded a military occupational specialty, completed a military program of training, completed testing or equivalent training and experience, and performed in the occupational specialty; or

(b) The applicant holds a current and valid license in another state in an occupation with a similar scope of practice, as determined by the occupational licensing board in Mississippi and has held this license from the occupational licensing board in the other state for at least one (1) year; and

(c) The applicant has not committed any act in the other state that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in Mississippi at the time the act was committed, the occupational licensing board in the other state holds the applicant in good standing, and the applicant does not have a disqualifying criminal record as determined by the occupational licensing board in Mississippi under Mississippi law; and

(d) The applicant did not surrender a license because of negligence or intentional misconduct related to the applicant's work in the occupation in another state; and

(e) The applicant does not have a complaint, allegation or investigation pending before an occupational licensing board or other board in another state that relates to unprofessional conduct or an alleged crime. If the applicant has a complaint, allegation or investigation pending, the occupational licensing board in Mississippi shall not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in Mississippi to the satisfaction of the occupational licensing board in Mississippi; and

(f) The applicant pays all applicable fees in Mississippi.

(4) Notwithstanding any other law, the occupational licensing board shall issue a license to an applicant who is a member of the military, or an applicant who is married to or is a dependent of a member of the military, upon application based on work experience in another state, if all the following apply:

(a) The applicant worked in a state that does not use a license to regulate a lawful occupation, but Mississippi uses a license to regulate a lawful occupation with a similar scope of practice, as determined by the occupational licensing board;

(b) The applicant worked for at least three (3) years in the lawful occupation; and

(c) The applicant satisfies the provisions of paragraphs (c) through (f) of subsection (3) of this section.

(5) An occupational licensing board may require an applicant to pass a jurisprudential examination specific to relevant state laws in Mississippi that regulate the occupation if the issuance of a license in Mississippi requires an applicant to pass a jurisprudential examination specific to relevant state statutes and administrative rules in Mississippi that regulate the occupation.

(6) The occupational licensing board shall issue or deny the license to the applicant within one hundred twenty days (120) days after receiving an application.

If the application requires longer than two (2) weeks to process, the occupational licensing board shall issue a temporary practice permit within thirty (30) days after receiving the application if the applicant submits an affidavit, under penalties of perjury, affirming that he or she satisfies the provisions of subsection (3)(a) or subsection (3)(b) of this section and subsection (3)(c) through (e) and pays all applicable fees as required by subsection (3)(f), or satisfies the provisions of subsection (4)(a) through (c) and pays all applicable fees as required by subsection (3)(f).

The applicant may practice under the temporary permit until a license is granted, or until a notice to deny the license is issued, in accordance with rules adopted by the occupational licensing board. A temporary license will expire in three hundred sixty-five (365) days after its issuance if the applicant fails to satisfy the requirement for licensure in subsection (5), if applicable.

(7)(a) The applicant may appeal any of the following decisions of an occupational licensing board to a court of general jurisdiction:

(i) Denial of a license;

(ii) Determination of the occupation;

(iii) Determination of the similarity of the scope of practice of the license issued; or

(iv) Other determinations under this section.

(b) The court shall determine all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an occupational licensing board, without regard to any previous determination that may have been made on the question in any action before the occupational licensing board.

(8) An occupational licensing board shall prominently print the following on all license applications, any communication denying a license, and on the board's website: "Pursuant to the provisions of the Military Family Freedom Act, Mississippi shall recognize occupational licenses obtained from other states for military members and their families." An occupational licensing board shall prepare and place on the board's website an annual report detailing the number of applications submitted to the licensing board under this section during a calendar year and the actions taken by the board on the applications.

(9) An occupational licensing board shall adopt rules necessary to implement this section by January 1, 2021. In addition, an occupational licensing board shall make all reasonable efforts to issue a license to an applicant for a license under this section.

(10) Nothing in this section shall be construed to prohibit a military applicant, spouse or dependent from proceeding under the existing licensure requirements established by an occupational licensing board in Mississippi.

(11) Nothing in this chapter shall be construed to prevent Mississippi from entering into a licensing compact or reciprocity agreement with another state, foreign province or foreign country. A license issued under this section is valid only in Mississippi. It does not make the person eligible to work in another state under an interstate compact or reciprocity agreement unless otherwise provided in Mississippi law.

(12) Nothing in this section shall be construed to apply to the practice of law as regulated under Section 73-3-1 et seq.

(13) This section preempts any ordinances of any municipality, county and other political subdivisions of the State of Mississippi that regulate licenses.

HISTORY: Laws, 2013, ch. 350, § 1, eff from and after July 1, 2013; Laws, 2019, ch. 445, § 1, eff from and after passage (approved March 29, 2019); Laws, 2020, ch. 412, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2019 amendment, effective March 29, 2019, added (4); redesignated former (4) through (9) as (5) through (10); rewrote (8), which read: "An occupational licensing board may adopt rules necessary to implement this section"; and added (11).

The 2020 amendment rewrote the section to provide that the section be known as the "Military Family Freedom Act" and to revise the provisions of this section to make it easier and faster for applicants who are members of the military or who are married to or dependents of members of the military to receive occupational licenses in Mississippi.

CHAPTER 53.

LICENSING AND REGULATION OF SOCIAL WORKERS

§ 73-53-3. Definitions.

HISTORY: Laws, 1987, ch. 421, § 2; Laws, 1997, ch. 516, § 23; reenacted without change, Laws, 1999, ch. 438, § 1; reenacted without change, Laws, 2001, ch. 421, § 1; reenacted and amended, Laws, 2011, ch. 462, § 2; reenacted without change, Laws, 2014, ch. 395, § 1, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 1, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 1, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-53-8. Creation of Board of Examiners for Social Workers and Marriage and Family Therapists; composition of board; powers and duties of board.

HISTORY: Laws, 1997, ch. 516, § 21, reenacted without change, Laws, 1999, ch. 438, § 2; reenacted and amended, Laws, 2001, ch. 421, § 3; reenacted and amended, Laws, 2011, ch. 462, § 5; reenacted and amended, Laws, 2014, ch. 395, § 2, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 2, effective from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 2, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-53-10. Fiscal support of board.

HISTORY: Laws, 1997, ch. 516, § 22; reenacted without change, Laws, 1999, ch. 438, § 3; reenacted without change, Laws, 2001, ch. 421, § 4; reenacted and amended, Laws, 2011, ch. 462, § 6; reenacted without change, Laws, 2014, ch. 395, § 3, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 3, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 3, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-53-11. Powers and duties of board.

HISTORY: Laws, 1987, ch. 421, § 6; Laws, 1997, ch. 516, § 24; reenacted without change, Laws, 1999, ch. 438, § 4; reenacted without change, Laws, 2001, ch. 421, § 5; reenacted and amended, Laws, 2011, ch. 462, § 7; reenacted without change, Laws, 2014, ch. 395, § 4, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 4, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 4, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-53-13. Licensure prerequisites.

HISTORY: Laws, 1987, ch. 421, § 7; Laws, 1997, ch. 516, § 25; Laws, 1997, ch. 588, § 64; reenacted without change, Laws, 1999, ch. 438, § 5; reenacted without change, Laws, 2001, ch. 421, § 6; reenacted and amended, Laws, 2011, ch. 462, § 8; Laws, 2013, ch. 350, § 38; reenacted without change, Laws, 2014, ch. 395, § 5, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 5, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 5, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

CHAPTER 54.

MARRIAGE AND FAMILY THERAPISTS

Sec.
73-54-41. Repealed.

§ 73-54-1. Title.

HISTORY: Laws, 1997, ch. 516, § 1; reenacted without change, Laws, 2014, ch. 395, § 6, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 6, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 6, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-3. Declaration of policy and purpose.

HISTORY: Laws, 1997, ch. 516, § 2; reenacted without change, Laws, 1999, ch. 438, § 7; reenacted without change, Laws, 2001, ch. 421, § 10; reenacted without change, Laws, 2011, ch. 462, § 16; reenacted without change, Laws, 2014, ch. 395, § 7, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 7, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 7, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-5. Definitions.

HISTORY: Laws, 1997, ch. 516, § 3; reenacted without change, Laws, 1999, ch. 438, § 8; reenacted and amended, Laws, 2001, ch. 421, § 11; reenacted and amended, Laws, 2011, ch. 462, § 17; reenacted and amended, Laws, 2014, ch. 395, § 8, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 8, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 8, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-7. Practicing marriage and family therapy or using certain titles without license prohibited; penalties.

HISTORY: Laws, 1997, ch. 516, § 4; reenacted without change, Laws, 1999, ch. 438, § 9; reenacted without change, Laws, 2001, ch. 421, § 12; reenacted and amended, Laws, 2011, ch. 462, § 18; reenacted without change, Laws, 2014, ch. 395, § 9, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 9, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 9, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-9. Exemptions.

HISTORY: Laws, 1997, ch. 516, § 5; reenacted without change, Laws, 1999, ch. 438, § 10; reenacted and amended, Laws, 2001, ch. 421, § 13; reenacted and amended, Laws, 2011, ch. 462, § 19; reenacted without change, Laws, 2014, ch. 395, § 10, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 10, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 10, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-11. Powers of board.

HISTORY: Laws, 1997, ch. 516, § 6; reenacted without change, Laws, 1999, ch. 438, § 11; reenacted without change, Laws, 2001, ch. 421, § 14; reenacted and amended, Laws, 2011, ch. 462, § 20; reenacted without change, Laws, 2014, ch. 395, § 11, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 12, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 11, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-13. Licensure prerequisites.

HISTORY: Laws, 1997, ch. 516, § 7; reenacted without change, Laws, 1999, ch. 438, § 12; reenacted without change, Laws, 2001, ch. 421, § 15; reenacted and amended, Laws, 2011, ch. 462, § 21; reenacted without change, Laws, 2014, ch. 395, § 12, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 12, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 12, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-17. Qualification for marriage and family therapy licensure after September 1, 2000; qualification for marriage and family therapy associate licensure after September 1, 2011.

HISTORY: Laws, 1997, ch. 516, § 9; reenacted without change, Laws, 1999, ch. 438, § 14; reenacted and amended, Laws, 2001, ch. 421, § 17; reenacted and amended, Laws, 2011, ch. 462, § 23; reenacted without change, Laws, 2014, ch.

395, § 13, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 13, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 13, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-19. Examination; cost of examination to be paid by applicant.

HISTORY: Laws, 1997, ch. 516, § 10; reenacted without change, Laws, 1999, ch. 438, § 15; reenacted without change, Laws, 2001, ch. 421, § 18; reenacted and amended, Laws, 2011, ch. 462, § 24; reenacted without change, Laws, 2014, ch. 395, § 14, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 14, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 14, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-23. Licensure of persons holding out-of-state license or certification.

HISTORY: Laws, 1997, ch. 516, § 12; reenacted without change, Laws, 1999, ch. 438, § 17; reenacted without change, Laws, 2001, ch. 421, § 19; reenacted and amended, Laws, 2011, ch. 462, § 25; Laws, 2013, ch. 350, § 39; reenacted without change, Laws, 2014, ch. 395, § 15, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 15, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 15, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-27. Expiration of license; renewal; inactive status.

HISTORY: Laws, 1997, ch. 516, § 14; reenacted without change, Laws, 1999, ch. 438, § 19; reenacted and amended, Laws, 2001, ch. 421, § 21; Laws, 2007, ch. 309, § 34; reenacted and amended, Laws, 2011, ch. 462, § 27; reenacted without change, Laws, 2014, ch. 395, § 16, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 16, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 16, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-29. Grounds for disciplinary sanction.

HISTORY: Laws, 1997, ch. 516, § 15; reenacted without change, Laws, 1999, ch. 438, § 20; reenacted without change, Laws, 2001, ch. 421, § 22; reenacted and amended, Laws, 2011, ch. 462, § 28; reenacted without change, Laws, 2014, ch. 395, § 17, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 17, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 17, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-31. Disciplinary proceedings.

HISTORY: Laws, 1997, ch. 516, § 16; reenacted without change, Laws, 1999, ch. 438, § 21; reenacted without change, Laws, 2001, ch. 421, § 23; reenacted without change, Laws, 2011, ch. 462, § 29; reenacted without change, Laws, 2014, ch. 395, § 18, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 18, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 18, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-33. Use of expert witnesses in proceedings before the board.

HISTORY: Laws, 1997, ch. 516, § 17; reenacted without change, Laws, 1999, ch. 438, § 22; reenacted and amended, Laws, 2001, ch. 421, § 24; reenacted without change, Laws, 2011, ch. 462, § 30; reenacted without change, Laws, 2014, ch. 395, § 19, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 403, § 19, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 19, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-35. Disciplinary sanctions.

HISTORY: Laws, 1997, ch. 516, § 18; reenacted without change, Laws, 1999, ch. 438, § 23; reenacted without change, Laws, 2001, ch. 421, § 25; reenacted without change, Laws, 2011, ch. 462, § 31; reenacted without change, Laws, 2014, ch. 395, § 20, eff from and after July 1, 2014; reenacted without change, Laws 2018, ch. 403, § 20, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 20, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-37. Confidentiality and privileged information; exceptions.

HISTORY: Laws, 1997, ch. 516, § 19; reenacted without change, Laws, 1999, ch. 438, § 24; reenacted and amended, Laws, 2001, ch. 421, § 26; reenacted and amended, Laws, 2011, ch. 462, § 32; reenacted without change, Laws, 2014, ch. 395, § 21, eff from and after July 1, 2014; reenacted without change, Laws, 2018 ch. 403, § 21, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 21, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-39. Competency of therapist or therapy associate to testify in alimony, custody or divorce actions.

HISTORY: Laws, 1997, ch. 516, § 20; reenacted without change, Laws, 1999, ch. 438, § 25; reenacted without change, Laws, 2001, ch. 421, § 27; reenacted and amended, Laws, 2011, ch. 462, § 33; reenacted without change, Laws, 2014, ch. 395, § 22, eff from and after July 1, 2014; reenacted without change, Laws, 2018, ch. 403, § 22, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 403, § 22, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-54-41. Repealed.

Repealed by Laws, 2018, ch. 403, § 23, eff from and after July 1, 2018.

§ 73-54-41. [Laws, 1999, ch. 438, § 27; Laws, 2001, ch. 421, § 28; Laws, 2011, ch. 462, § 34; Laws, 2014, ch. 395, § 23, eff from and after July 1, 2014.]

Editor's Notes — Former § 73-54-41 repealed §§ 73-54-1 through 73-54-39, 73-53-3, 73-53-8, 73-53-10, 73-53-11 and 73-53-13.

Sections 73-54-15 and 73-54-25, included within the span of sections repealed by former § 73-54-41, were repealed by Laws of 2011, ch. 462, effective from and after July 1, 2011.

CHAPTER 55.

MISSISSIPPI ATHLETIC TRAINERS LICENSURE ACT

§ 73-55-13. Fees; continuing education requirements.

HISTORY: Laws, 1991, ch. 374, § 7; Laws, 2007, ch. 309, § 35; Laws, 2009, ch. 425, § 5; Laws, 2016, ch. 510, § 52, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 52, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 52. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 57.

MISSISSIPPI RESPIRATORY CARE PRACTICE ACT

Sec.
73-57-27. Renewal of licenses.

§ 73-57-5. Definitions.

JUDICIAL DECISIONS

1. Reimbursement for respiratory therapy expenses.

Long-term skilled nursing facility was not entitled to a per diem reimbursement from the Mississippi Division of Medicaid (DOM) for respiratory-therapist expenses because the DOM had no statutory requirement to provide funding for the respiratory therapy. Although the DOM did allow a per diem reimbursement for respiratory therapists' salaries for certain categories of medical facilities, the nursing facility, which was classified as a large nursing facility was not entitled to claim respiratory-therapy expenses as part of its per diem calculation. CLC of Biloxi, LLC v. Miss. Div. of Medicaid, 238 So. 3d 16, 2018 Miss. App. LEXIS 73 (Miss. Ct. App. 2018).

§ 73-57-17. Criteria for licensing.

JUDICIAL DECISIONS

1. Reimbursement for respiratory therapy expenses.

Long-term skilled nursing facility was not entitled to a per diem reimbursement from the Mississippi Division of Medicaid (DOM) for respiratory-therapist expenses because the DOM had no statutory requirement to provide funding for the respiratory therapy. Although the DOM did allow a per diem reimbursement for respiratory therapists' salaries for certain categories of medical facilities, the nursing facility, which was classified as a large nursing facility was not entitled to claim respiratory-therapy expenses as part of its per diem calculation. CLC of Biloxi, LLC

v. Miss. Div. of Medicaid, 238 So. 3d 16, 2018 Miss. App. LEXIS 73 (Miss. Ct. App. 2018).

§ 73-57-19. Examinations.

HISTORY: Laws, 1991, ch. 500, § 10; Laws, 2016, ch. 510, § 53, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 53, eff from and after July 1, 2020.

Editor's Notes — Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

This section was reenacted without change by Laws of 2020, ch. 473, § 53. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-57-21. Temporary permits.

HISTORY: Laws, 1991, ch. 500, § 11; Laws, 2012, ch. 386, § 10; Laws, 2016, ch. 510, § 54, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 54, eff from and after July 1, 2020.

Editor's Notes — Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

This section was reenacted without change by Laws of 2020, ch. 473, § 54. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-57-27. Renewal of licenses.

HISTORY: Laws, 1991, ch. 500, § 14; Laws, 2007, ch. 309, § 36; Laws, 2012, ch. 386, § 12; Laws, 2016, ch. 510, § 55, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 55, eff from and after July 1, 2020.

Editor's Notes — Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

This section was reenacted without change by Laws of 2020, ch. 473, § 55. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-57-29. Fees and disposition of revenue.

HISTORY: Laws, 1991, ch. 500, § 15; reenacted without change, Laws, 2012, ch. 386, § 13; Laws, 2016, ch. 510, § 56, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 56, eff from and after July 1, 2020.

Editor's Notes — Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by

Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

This section was reenacted without change by Laws of 2020, ch. 473, § 56. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 59.

RESIDENTIAL BUILDERS AND REMODELERS

§ 73-59-9. Violations in connection with licensing; penalties; builder or remodeler without license may not bring certain actions.

JUDICIAL DECISIONS

3. Licensed builder.

Circuit court erred when it held that the statute barred a builder's suit against property owners for breach of contract because the builder became licensed two months before it filed suit against the owners; the builder acknowledged that it did not have a license during the contracting or construction of the owner's home, but it obtain a license prior to filing its suit against them. WC Baker Co. LLC v. Stockton, 274 So. 3d 948, 2018 Miss. App. LEXIS 599 (Miss. Ct. App. 2018), cert. denied, 272 So. 3d 132, 2019 Miss. LEXIS 247 (Miss. 2019).

Subsection (3) does not require that a residential builder be licensed at the time of performance or at the time the cause of action accrued and only that a residential builder obtain a license prior to bringing an action. WC Baker Co. LLC v. Stockton, 274 So. 3d 948, 2018 Miss. App. LEXIS 599 (Miss. Ct. App. 2018), cert. denied, 272 So. 3d 132, 2019 Miss. LEXIS 247 (Miss. 2019).

CHAPTER 61.

TATTOOING AND BODY PIERCING

§ 73-61-1. Tattooing.

HISTORY: Laws, 1994, ch. 342, § 1; Laws, 2016, ch. 510, § 57, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 57, eff from and after July 1, 2020.

Editor's Notes — Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

This section was reenacted without change by Laws of 2020, ch. 473, § 57. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-61-3. Body piercing.

HISTORY: Laws, 2000, ch. 347, § 1; Laws, 2007, ch. 309, § 39; Laws, 2016, ch. 510, § 58, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 58, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 58. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 65.

PROFESSIONAL ART THERAPISTS

§ 73-65-5. State Board of Health powers and duties.

HISTORY: Laws, 1998, ch. 568, § 3; reenacted and amended, Laws, 2000, ch. 489, § 3; reenacted without change, Laws, 2002, ch. 420, § 3; reenacted without change, Laws, 2004, ch. 350, § 3; Laws, 2012, ch. 406, § 3; Laws, 2016, ch. 510, § 59, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 59, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 59. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-65-9. Certificate renewal, suspension and reinstatement; retirement.

HISTORY: Laws, 1998, ch. 568, § 5; reenacted and amended, Laws, 2000, ch. 489, § 5; reenacted without change, Laws, 2002, ch. 420, § 5; reenacted without change, Laws, 2004, ch. 350, § 5; Laws, 2007, ch. 309, § 41; Laws, 2016, ch. 510, § 60, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 60, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 60. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

§ 73-65-11. Fees.

HISTORY: Laws, 1998, ch. 568, § 6; reenacted and amended, Laws, 2000, ch. 489, § 6; reenacted without change, Laws, 2002, ch. 420, § 6; reenacted without change, Laws, 2004, ch. 350, § 6; Laws, 2016, ch. 510, § 61, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 473, § 61, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 473, § 61. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Section 65 of Chapter 510, Laws of 2019, which was the repealer for this section, and which was to have become effective July 1, 2020, was repealed by Section 65 of Chapter 473, Laws of 2020, effective July 1, 2020.

Amendment Notes — The 2020 amendment reenacted the section without change.

CHAPTER 67.

PROFESSIONAL MASSAGE THERAPISTS

Sec.
73-67-39. Repeal of Sections 73-67-1 through 73-67-37.

§ 73-67-1. Short title [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 1; reenacted without change, Laws, 2004, ch. 476, § 1; reenacted without change, Laws, 2008, ch. 451, § 1; reenacted without change, Laws, 2013, ch. 477, § 1, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 1, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 1, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-3. Legislative findings [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 2; reenacted without change, Laws, 2004, ch. 476, § 2; reenacted and amended, Laws, 2008, ch. 451, § 2; reenacted without change, Laws, 2013, ch. 477, § 2, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 2, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 2, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-5. Exemptions [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 3; reenacted and amended, Laws, 2004, ch. 476, § 3; reenacted without change, Laws, 2008, ch. 451, § 3; reenacted without change, Laws, 2013, ch. 477, § 3, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 3, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 3, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-7. Definitions [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 4; reenacted and amended, Laws, 2004, ch. 476, § 4; reenacted and amended, Laws, 2008, ch. 451, § 4; Laws, 2013, ch. 477, § 4, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 4, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 4, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-9. State Board of Massage Therapy; membership; quorum [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 5; reenacted and amended, Laws, 2004, ch. 476, § 5; reenacted and amended, Laws, 2008, ch. 451, § 5; reenacted without change, Laws, 2013, ch. 477, § 5, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 5, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 5, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-11. Bond of executive secretary of board; State Board of Massage Therapy Fund [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 6; reenacted and amended, Laws, 2004, ch. 476, § 6; reenacted without change, Laws, 2008, ch. 451, § 6; reenacted without change, Laws, 2013, ch. 477, § 6, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 6, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 6, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-13. Compensation and payment of expenses [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 7; reenacted without change, Laws, 2004, ch. 476, § 7; reenacted without change, Laws, 2008, ch. 451, § 7; reenacted without change, Laws, 2013, ch. 477, § 7, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 7, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 7, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-15. Duties of board; board members immune from liability [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 8; reenacted and amended, Laws, 2004, ch. 476, § 8; Laws, 2007, ch. 309, § 42; reenacted and amended, Laws, 2008, ch. 451, § 8; reenacted without change, Laws, 2013, ch. 477, § 8, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 8, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 8, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-17. Rules and regulations [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 9; reenacted and amended, Laws, 2004, ch. 476, § 9; reenacted and amended, Laws, 2008, ch. 451, § 9; reenacted without change, Laws, 2013, ch. 477, § 9, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 9, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 9, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-19. Enforcement actions; investigations; hearing [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 10; reenacted and amended, Laws, 2004, ch. 476, § 10; reenacted and amended, Laws, 2008, ch. 451, § 10; reenacted without change, Laws, 2013, ch. 477, § 10, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 10, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 10, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-21. Practice of massage therapy prohibited unless licensed; requirements for licensure; exemptions; validity of certificates of registration issued before July 1, 2008; fingerprint-based criminal history records check required [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 11; Laws, 2002, ch. 482, § 1; reenacted and

amended, Laws, 2004, ch. 476, § 11; Laws, 2005, ch. 346, § 1; reenacted and amended, Laws, 2008, ch. 451, § 11; Laws, 2013, ch. 477, § 11, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 11, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 11, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-23. Examination [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 12; reenacted and amended, Laws, 2004, ch. 476, § 12; Laws, 2007, ch. 368, § 1; reenacted and amended, Laws, 2008, ch. 451, § 12; Laws, 2013, ch. 477, § 12, eff from and after July 1, 2013; reenacted without change, Laws of 2018, ch. 339, § 12, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 12, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-25. Reciprocity; temporary reciprocal permit [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 13; reenacted and amended, Laws, 2004, ch. 476, § 13; reenacted and amended, Laws, 2008, ch. 451, § 13; Laws, 2013, ch. 350, § 43; Laws, 2013, ch. 477, § 13, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 13, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 13, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-27. Grounds for denial, suspension or revocation of license; investigative proceedings; prostitution in connection with massage; penalties [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 14; reenacted and amended, Laws, 2004, ch. 476, § 14; reenacted and amended, Laws, 2008, ch. 451, § 14; reenacted without change, Laws, 2013, ch. 477, § 14, eff from and after July 1, 2013; reenacted without change by Laws of 2018, ch. 339, § 14, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 14, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-29. Advertising restrictions; exemptions [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 15; reenacted and amended, Laws, 2004, ch. 476, § 15; reenacted and amended, Laws, 2008, ch. 451, § 15; Laws, 2013, ch. 477, § 15, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 15, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 15, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-31. Duties and responsibilities of licensed massage therapists; diagnosis and prescriptions prohibited [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 16; reenacted without change, Laws, 2004, ch. 476, § 16; reenacted and amended, Laws, 2008, ch. 451, § 16; reenacted without change, Laws, 2013, ch. 477, § 16, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 16, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 16, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-33. Massage establishments to have adequate lavatory facilities, workable telephone, and copy of massage therapy code of ethics and professional conduct [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 17; reenacted and amended, Laws, 2004, ch. 476, § 17; reenacted without change, Laws, 2008, ch. 451, § 17; reenacted without change, Laws, 2013, ch. 477, § 17, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 17, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 17, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-35. Education requirements for licensure; standards for massage therapy programs and schools; evidence of current national accreditation in lieu of application [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 18; reenacted without change, Laws, 2004,

ch. 476, § 18; reenacted and amended, Laws, 2008, ch. 451, § 18; Laws, 2011, ch. 371, § 2; Laws, 2013, ch. 477, § 18, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 18, , eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 18, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-37. Grace period for licensure [Repealed effective July 1, 2021].

HISTORY: Laws, 2001, ch. 549, § 19; Laws, 2002, ch. 482, § 2; reenacted without change, Laws, 2004, ch. 476, § 19; reenacted and amended, Laws, 2008, ch. 451, § 19; reenacted without change, Laws, 2013, ch. 477, § 19, eff from and after July 1, 2013; reenacted without change, Laws, 2018, ch. 339, § 19, eff from and after July 1, 2018.

Editor's Notes — This section was reenacted without change by Laws of 2018, ch. 339, § 19, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment reenacted the section without change.

§ 73-67-39. Repeal of Sections 73-67-1 through 73-67-37.

Sections 73-67-1 through 73-67-37 shall stand repealed on July 1, 2021.

HISTORY: Laws, 2001, ch. 549, § 20; Laws, 2004, ch. 476, § 20; Laws, 2008, ch. 451, § 20; Laws, 2013, ch. 477, § 20, eff from and after July 1, 2013; Laws, 2018, ch. 339, § 20, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment extended the date of the repealer for §§ 73-67-1 through 73-67-37 by substituting "July 1, 2021" for "July 1, 2018."

CHAPTER 77.

FRESH START ACT OF 2019

Sec.

73-77-1. Short title.
73-77-3. Definitions.
73-77-5. Disqualification from pursuing, practicing, or engaging in occupation for which license is required on basis of prior conviction of crime prohibited; exceptions.
73-77-7. Use of certain vague or generic terms in licensing authority rulemaking prohibited; clear and convincing standard of proof to be used when examining factors to determine a disqualifying criminal conviction; applicability.
73-77-9. Petition by individual to determine if criminal record is disqualifying; information licensing authority must provide individual denied license on basis of criminal record; burden of proof in hearing or litigation; applicability.

Sec.
73-77-11. Suspension or revocation of license.

§ 73-77-1. Short title

This chapter shall be known and may be cited as the "Fresh Start Act of 2019."

HISTORY: Laws, 2019, ch. 470, § 1, eff from and after July 1, 2019.

§ 73-77-3 Definitions.

As used in this chapter, the following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Criminal record" shall mean any type of felony or misdemeanor conviction.

(b) "Licensing" shall mean any required training, education, or fee to work in a specific profession.

(c) "Licensing authority" shall mean an agency, examining board, credentialing board, or other office with the authority to impose occupational fees or licensing requirements on any profession.

HISTORY: Laws, 2019, ch. 470, § 2, eff from and after July 1, 2019.

§ 73-77-5. Disqualification from pursuing, practicing, or engaging in occupation for which license is required on basis of prior conviction of crime prohibited; exceptions.

Absent applicable state law, no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation. The provisions of this section shall not apply to the admission or reinstatement of any person to The Mississippi Bar as an attorney in good standing authorized to practice law.

HISTORY: Laws, 2019, ch. 470, § 3, eff from and after July 1, 2019.

§ 73-77-7. Use of certain vague or generic terms in licensing authority rulemaking prohibited; clear and convincing standard of proof to be used when examining factors to determine a disqualifying criminal conviction; applicability.

(1) Absent applicable state law, licensing authorities shall not have in any rulemaking for their qualifications for licensure vague or generic terms

including, but not limited to, "moral turpitude," "any felony," and "good character." Absent applicable state law, licensing authorities may only consider criminal records that are specific and directly related to the duties and responsibilities for the licensed occupation when evaluating applicants.

(2) The licensing authority shall use the clear and convincing standard of proof in examining the factors to determine whether an applicant with a disqualifying criminal conviction will be denied a license. Absent applicable state law, the licensing authority shall make its determination based on the following factors:

(a) The nature and seriousness of the crime for which the individual was convicted;

(b) The passage of time since the commission of the crime;

(c) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation; and

(d) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against a direct relation.

(3) All licensing authorities shall meet the requirements listed in subsection (1) by one hundred twenty (120) days after July 1, 2019.

(4) For licensing authorities, the requirements listed in subsections (1) and (2) also apply to any new occupational licenses created after July 1, 2019.

(5) The licensing authority shall adopt necessary rules for the implementation of this section.

(6) The provisions of this section shall not apply to the admission or reinstatement of any person to The Mississippi Bar as an attorney in good standing authorized to practice law.

HISTORY: Laws, 2019, ch. 470, § 4, eff from and after July 1, 2019.

§ 73-77-9. Petition by individual to determine if criminal record is disqualifying; information licensing authority must provide individual denied license on basis of criminal record; burden of proof in hearing or litigation; applicability.

(1) Absent applicable state law, an individual with a criminal record may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include details on the individual's criminal record. The licensing authority shall inform the individual of his standing within thirty (30) days of receiving the petition from the applicant. The licensing authority may charge a fee to recoup its costs not to exceed Twenty-five Dollars ($25.00) for each petition.

(2) If a licensing authority denies an individual a license solely or in part because of the individual's prior conviction of a crime, the licensing authority shall notify the individual in writing of the following:

(a) The grounds and reasons for the denial or disqualification;

(b) That the individual has the right to a hearing to challenge the licensing authority's decision;

(c) The earliest date the person may reapply for a license; and

(d) That evidence of rehabilitation may be considered upon reapplication.

(3) If an applicant's criminal history does not require a denial of a license under applicable state law, any written determination by the licensing authority that an applicant's criminal conviction is directly related to the duties and responsibilities for the licensed occupation must be documented in written findings for each of the preceding factors under subsection (2) by clear and convincing evidence sufficient for a reviewing court.

(4) In any administrative hearing or civil litigation authorized under this section, the licensing authority shall carry the burden of proof on the question of whether the applicant's criminal conviction directly relates to the occupation for which the license is sought.

(5) The licensing authority shall adopt necessary rules for the implementation of this section.

(6) The provisions of this section shall not apply to the admission or reinstatement of any person to The Mississippi Bar as an attorney in good standing authorized to practice law.

HISTORY: Laws, 2019, ch. 470, § 5, eff from and after July 1, 2019.

§ 73-77-11. Suspension or revocation of license.

Notwithstanding any provision of law to the contrary, no licensing authority shall suspend or revoke the license it has issued to any person who is:

(a) In default or delinquent in the payment of their student loans solely on the basis of such default or delinquency; or

(b) In default or delinquent in the satisfaction of the requirements of their work-conditional scholarship solely on the basis of such default or delinquency.

HISTORY: Laws, 2019, ch. 470, § 6, eff from and after July 1, 2019.

CHAPTER 79.

HEMODIALYSIS TECHNICIANS

Sec.
73-79-1. Statewide hemodialysis technician registration with the State Board of Health; administration of hemodialysis under authority of licensed registered nurse.

§ 73-79-1. Statewide hemodialysis technician registration with the State Board of Health; administration of hemodialysis under authority of licensed registered nurse.

(1) The State Board of Health shall establish and maintain a statewide program for the registration of hemodialysis technicians.

(2) The board is authorized and empowered to:

(a) Register hemodialysis technicians who meet the qualifications prescribed by the board;

(b) Maintain a permanent register of all registered hemodialysis technicians; and

(c) Adopt rules and regulations relating to the registration and practice of hemodialysis technicians.

(3) Any person desiring registration as a registered hemodialysis technician must submit to the State Department of Health:

(a) An application as prescribed by the board; and

(b) A registration fee to be fixed by the board, which shall be paid to the department.

(4) A hemodialysis technician may administer hemodialysis under the authority of a registered nurse licensed under the Mississippi Nursing Practice Law, who may delegate tasks based on nursing judgment to a hemodialysis technician based on the technician's education, knowledge, training and skills. A hemodialysis technician who has completed or is currently in a training program recognized by the board may perform as a hemodialysis technician under the authority of a registered nurse before obtaining national certification; however, the national certification must be obtained within eighteen (18) months of the hiring of the hemodialysis technician, and evidence of the national certification must be provided to the department.

(5) The board shall establish fees necessary for the administration of this section.

HISTORY: Laws, 2019, ch. 375, § 1, eff from and after July 1, 2019.